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THE TRIBE, AND INTERTRIBAL RELATIONS IN AUSTRALIA

THE TRIBE, AND INTERTRIBAL RELATIONS IN AUSTRALIA

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PREFATORY NOTE

THE subject of the present essay indicates the kind of research which is encouraged at the University of London so far as the lower stages of civilization are concerned. Next to sociological field-work—to which Mr. Wheeler also has recently devoted himself during a year's stay among the natives of the Solomon Islands—there are, within this branch of study, no other investigations so urgently needed as monographs on some definite class of social phenomena or institutions among a certain group of related tribes. A comparative treatment of some social institution as it exists throughout the uncivilized races of the world undoubtedly has its value. It bears out general resemblances as well as local or racial differences. It also, in many cases, enables the specialist to explain facts which he could hardly understand in full if his knowledge were restricted to a limited area. But at the same time the comparative study suffers from certain defects which seem to be wellnigh inseparable from the prosecution of so great a task. A social institution is not an isolated phenomenon, but is closely connected

with a variety of facts. It is largely influenced by local conditions, by the physical environment, by the circumstances in which the people in question lives, by its habits and mental characteristics. All these factors can be properly taken into account when the investigation is confined to a single people or one ethnic unity. Hence, the student of social institutions in general must be grateful to the specialist who provides him with the results of his detailed research.

Mr. Wheeler's book is of particular interest as being, I believe, the first monograph on intertribal relationships among uncivilized peoples. It shows that, contrary to generally held ideas on the subject, war is not the normal condition even among so low a race as the Australian aborigines; that there are among them germs of what is styled "international law"; nay, that there has been something like an anticipation of the Geneva Convention even in the Australian Bush.

It is hoped that the present volume will be the first in a series of sociological works published in connection with the Martin White benefaction at the University of London.

EDWARD WESTERMARCK.

LONDON,
May, 1910.

PREFACE

In publishing this small contribution to Sociology, I must first of all express my thanks to Mr. J. Martin White, whose liberality has made the publication possible ; and at the same time I take this opportunity gratefully to acknowledge the active support I have had from him for my sociological studies.

To Dr. Edward Westermarck my deep gratitude is due for the inspiration and help I have had from him in my researches ; my debt is not easily measured.

I have to give my very hearty thanks to Miss Helen Hadley for all the care and time she has given to proof-reading and checking references.

G. C. WHEELER.

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" Now, just as in each State the laws have for their end the good of that State, even so among all, or nearly all, States laws could have arisen by common consent, and are seen to have arisen, which have for their end the good not of separate communities, but of this great assemblage."—GROTIUS : " De Jure Belli ac Pacis," Prolegomena, 17.

" Nor are opinions to be held of no account, particularly when they agree with one another ; for the Law of Nature, as we have said, is in a measure established by them ; while there is no way otherwise of establishing the Law of Nations."—GROTIUS : " De Jure Belli ac Pacis," Prolegomena, 46.

" If therefore . . . we were to discourse of the community as it comes into being, should we not likewise behold its justice and injustice at the birth ?"—PLATO : " Republic," Bk. ii.

THE TRIBE AND INTERTRIBAL RELATIONS IN AUSTRALIA

INTRODUCTION

The following study aims primarily at investigating the customs which regulate the relations between certain local groups among the Australian natives,[1] in which customs there may be seen the early forms of many of the concepts and principles which make up what is known as International Law.

Up till now there has been no attempt made to investigate into the primitive aspect of this division of Law ; and it cannot but suggest itself that the application in this direction of those methods which are being used for the investigation of National Law may yield results not wholly without value.

A comparison of International Law with National or Municipal Law tends, at any rate at first, to give a certain air of arbitrariness, and even precariousness, to what are called principles, laid down in the formal treatises on International Law ; the student receives an impression of " judge-made " law where there is, moreover, a want of agreement

[1] The investigations may be extended afterwards to other primitive peoples.

amongst the judges and those theorists who guide them.

Maine has observed[2] that " in modern days the name of International Law has been very much confined to rules laid down by one particular class of writers. They may be roughly said to begin in the first half of the seventeenth century, and to run three parts through the eighteenth century "— that is, beginning with Grotius and continuing through Puffendorf, Leibnitz, and others, down to Vattel, a period of less than one hundred and fifty years.

From such a point of view International Law appears not so much a gradual growth as rather the studied product of a class of law-creating jurists.[3]

Yet, whatever view we take of the relation of International Law to jurisprudence, it is not open to doubt that, like all law and morality, it is the product of a gradual growth, and is an organic whole. If this be so, an investigation into its origins and early forms, so far as they are open to observation, may bring as a result a measure of clearness and precision into its principles, and help to a clearer insight into its ends ; both of which aims have a value to which few jurists will be blind.

Those who approach International Law from the standpoint of formal National (or Municipal)

[2] " International Law," pp. 13, 14.

[3] Maine observes (*ibid.*, p. 14) that it is still held, " I think not quite fortunately, . . . that the race of law-creating jurists still exists."

Law, particularly if their studies have been dogmatic rather than historical, will probably incline to deny that the term "law" is applicable in this connection at all. For, from the standpoint of National Law, we find in International Law none of the formal attributes connotated by the term "law"—at least, in their full sense. There is no agreement as to the extent of the community to which the principles are to apply, no common consent by the members of a community to be bound by them, and no tribunal or authority to give judgment in accordance with recognized principles, and with power to enforce its decisions.

At any rate, such persons will hold that International Law is still in its infancy compared with National Law.

In one of the most complete treatises which has appeared of late it is remarked[4] that National Law has moved far along the road towards ideal justice, but that "it seems no exaggeration to say that nothing of the kind can be found in the international political community, where it can hardly be said that law has even set out on the road of progress." International morality, the writer says, has made no advance whatever.[5]

The truth is that the whole of International Law is at the stage where custom and law are not

[4] Conde y Luque in Olivart's "Derecho Internacional Público," prólogo, p. 16.

[5] If, says this writer, we see things as they truly are in International Law, our method must be on the analogy, not of a well-proportioned, well-arranged palace, but on that of some building but half built—nay, only half planned out and half conceived (*ibid.*, prólogo, p. 24).

differentiated, where there has been no crystallization of custom into law. Moreover, it is clear that such a concept as the Austinian concept of law and that of sovereign independent States are contradictory, and can never both form part of a consistent doctrine: absolutely independent States, as such, cannot submit to an external and objective law.

There exists at the present time a body of customs, which to a certain extent regulates the intercourse between the political groups called States.[6] The changes and developments in this field during comparatively recent times can be easily traced, more particularly in Western Europe; the writer on International Law can point to a certain progress in the systematization of the already existing forms, and the creation of new ones where needed for the relations between States, such as treaties and alliances for definite purposes other than active aggression (such as those for commerce and extradition), improvements in the treatment accorded to foreigners, and so on.

But these improvements are the result of the general evolution of human culture, and are due to the labours of professed international jurists in only the smallest degree.[7]

[6] Yet the difficulty in fixing the exact scope of International Law and marking it off from public law is seen in such a case as that of the States making up the German or the Austrian Empire in modern times. The Achæan League may be instanced in this connection from an earlier epoch.

[7] *Cf.* Conde y Luque in Olivart, prólogo, pp. 18, 19: "Todos los enumerados y muchos más que podrián aducirse son más bien meros resultados del curso ascendente de la Historia, pro-

International Law is just as much an organic growth, the result of a gradual process of evolution, as is National Law. No justification is needed for the application of the historical method to this department of culture, and it is clear also that if we accept this method, it must be carried as far as possible—much farther than has been done by the writers on dogmatic International Law.

By these writers there has been no attempt made to deal with the customs prevailing among the more primitive races; with, at the most, a passing reference to certain of the higher-cultured races of antiquity, whose connection with the history of Western European culture is more evident, they begin their historical retrospect with the later Middle Ages and Grotius. The result is a certain distortion of the facts as regards the early history of international customs and morality,[8] which cannot be without effect on the systematic treatment.

A recent philosophical writer[9] has observed that "even civilized nations are still to one an-

ductos naturales de la humana civilización. No hay que atribuirlos sino en mínima parte al derecho de gentes. Forma éste uno de los elementos de la vida humana" (see translation in the Addenda).

[8] We find Maine ("International Law," p. 22) saying categorically: "It [the childhood of the human race] was excessively inhuman in war." Olivart (*op. cit.*, p. 6) declares: "The tribes are ignorant of all the great principles which form the foundation of the law of nations: in them war is the normal and constant condition; peace is but a short truce imposed by necessity or exhaustion; victory means pillage and extermination." In what follows we may be led to modify such views as these.

[9] Ritchie, "Natural Rights," p. 123. We may remark on this passage that the primitive "state of nature" is not always a "state of war."

other in Hobbes's 'state of nature'—a state of war mitigated only by the growth of a certain international moral sentiment, and the consequent observance of a certain code of honour, as it might be called, which, having a quasi-legal character, is termed International Law."

On the other hand, as Merkel has observed,[10] this International Law shows itself to be akin to the law which at a certain lower stage of development links, however loosely, the clans (*Sippen*) of a numerous people.

At the present day, moreover, the idea of a community of civilized nations, and still more of a possible community of all mankind, is vague and ill-defined. The very questions as to when and how a political society comes into being, and acquires and maintains "rights," are decided on merely conventional grounds with no fixed principles.[11]

International Law, it is clear, has, so far as history can show us, developed but little, while it is not by any means a peculiar product of modern Western civilization. The main difference between the earlier and the more developed forms is that in the first case Custom is the only source, while in the second case Contract in the form of treaties forms a second source, with a corresponding difference in the element of Recognition.[12] But such contracts may be looked on as purely customary.

[10] "Juristische Encyklopädie, 1885, p. 361.
[11] Ritchie, "Natural Rights," p. 123.
[12] *Cf.* Merkel, "Juristische Encyklopädie," pp. 364, 365.

The examination of the early history of International Law promises, therefore, to be particularly valuable, if only the main difficulty of a scarcity of materials be got over. At any rate, it is possible that by this way a surer foundation may be given to the study than is possible where little or no heed is paid to phases earlier than the later Middle Ages in Europe.[13]

Moreover, Grotius and his forerunners based but a part of their treatment on the actual practices of mankind; or, rather, there is throughout their treatment that confusion between facts and ideals, or ends, which has clung throughout to dogmatic International Law.

Grotius owes his influence largely to his having grafted his work on to the then still living tree of Roman Law.[14] It is significant, too, that practically the whole of his work is concerned with war; the idea of peaceful international relations would seem in his view to have been hardly worth taking into account.

We may conclude with some remarks more especially on the connection of this study with the

[13] *Cf.* L. Oppenheim ("International Law," vol. i., p. 44): "International Law as a law between Sovereign and equal States based on the common consent of these States is a product of modern Christian civilization, and may be said to be hardly four hundred years old. However, the roots of this law go very far back into history."

[14] Maine remarks ("International Law," p. 20) that "a great part . . . of International Law is Roman Law." *Cf.* also *ibid.*, pp. 15, 16. The particular province of Roman Law with which International Law has been connected is the "Jus Gentium" or "Jus Naturale." There is an estimate of Grotius in Walker, "History of the Law of Nations," pp. 330-335.

modern theory of International Law.[15] It is held by writers on that subject that the first condition for the existence of such law is the existence of a community of civilized States, which are linked together by certain interests (religion, science, art, trade, and so on). Rules have grown up derived from Custom, and, in an ever-growing degree, written agreements: these make up that Common Consent which forms the second condition for the existence of law. In the third place, such rules must be enforced by an external power, and though there is in International Law no central power, yet the heads of States and public opinion agree that the rules shall be enforced, but with this distinction—that each State has to take such enforcement upon itself. International Law is still law, even if it is weak law; moreover, it is recognized by the Municipal Law, and even if it is broken, is still referred to, and the breaking of it has to be justified. Further, there is a distinction between International Comity and Law.[16]

We shall find in what follows that among the Australians there is a community of independent (or practically independent) local groups, each with a certain measure of government; they are brought into relations with one another through intermarriage and trade, and through meetings for hunting, the corobori, and gatherings for initiation. There is a great measure of intercourse through the visits of individuals and parties, and a further link

[15] I am indebted to Dr. L. Oppenheim for the suggestion to add this note.

[16] *Cf.* Oppenheim, "International Law," vol. i., pp. 10-16, 25.

(which perhaps we may compare to the religious bond) is found in the existence of kinship organizations common to several tribes.

The Common Consent to the observance of certain rules is found in the fact that they are seen to be so observed over wide tracts, or, if we neglect unessential differences, over the whole Australian area. We find, it is true, no account of how the breach of such rules would be punished, but, on the other hand, there is an equal absence of any mention of their being broken. We find no class of offences against the customs regulating inter-tribal intercourse, and we are justified in concluding that such offences were at least as rare as offences against the recognized precepts of modern International Law.

There is, finally, a difference in the attitude towards tribes fairly near a given tribe, and in more or less constant communication with it, and that taken towards far-off tribes with which the given tribe seldom has relations ; these latter are spoken of under such terms as " wild blacks." We see here a close analogy to the view taken by the members of the " family of nations " with regard to those countries which lie outside this " family."

I

GENERAL ENVIRONMENT AND THE COMMUNITY OF AUSTRALIAN TRIBES

AUSTRALIA and the adjacent small islands, with an area two-thirds of that of Europe, was peopled before the settlement of the whites by a race which was homogeneous, so far as any race can be so described.

It is generally held that there was once an earlier race, relatively speaking, inhabiting this area, which has been overlaid by successive immigrations, probably from the north. But for long ages before the coming of the whites the natives of Australia had been sundered from the rest of the world ; for we may neglect the slight contact there was during this period in the north with other races—that is to say, with the Papuans and Malay fishermen.

On the evidence of weapons and utensils, the Australians, as known to Europeans, are held to belong to that culture-level known as the Neolithic.

The Tasmanians, who are generally held among ethnologists to represent the earliest of the Australian races, are considered by Tylor to belong

to a level lower even than the Palæolithic, which he calls the Eolithic.[1]

It would seem that during the present geological era there was no intercourse between the natives of Australia and those of Tasmania.

The Australian and Tasmanian aborigines, therefore, represent mankind at a relatively highly primitive stage. About the Tasmanians little is known, or can ever now be known, owing to their complete destruction before any scientific investigation of them could be made. Most of our facts will be taken from Australia, where the natives, although fast dying out wherever they come in contact with Europeans, have been the object of longer and more detailed observation ; and of late years such scientific observers as Spencer and Gillen, Howitt, Roth, and others, have given us valuable studies.

The most striking physical feature of Australia is the want of water, a great part of its area being desert.

There is only one permanent river-system of any size—the Murray-Darling system in the south-east. Elsewhere, few of the rivers out of the rainy season are anything but series of pools, and a great number never reach the sea.

The yearly rainfall is exceedingly low, reaching its maximum in the south-east. It is here that we find the most varied physiographical conditions in Australia. Here we have lofty mountains, deep valleys, and perennial rivers, while the

[1] Proceedings of British Association for the Advancement of Science, Anthropological Section, 1900.

rest of Australia is mainly an unbroken plain.[2] It is in the south-east, likewise, that we find the most broken coast-line. Elsewhere there is an extraordinary want of sheltered waters. The proportion of coast-line to area in Australia is very small. These facts, together with the want of rivers and lakes, make up a condition restricting tribal intercourse.

Tasmania, with an area three-fourths of that of Ireland, has a temperate climate, a diversified surface, a well-indented coast-line, and many rivers with navigable estuaries. Its flora and fauna resemble those of South-Eastern Australia.

In the early days of white settlement, owing to the comparatively small extent which had been explored, no estimate was possible of the native population. Its density will now never be known, owing to the rapid extinction of the natives wherever they have come into contact with Europeans. The most divergent estimates have been made upon this subject. It seems clear, however, that the population was subject to great fluctuations, owing to long periods of scarcity, and to the ravages of epidemics which occurred even

[2] Howitt ("The Native Tribes of South-East Australia") remarks that the rainfall increases as the coast is approached south and south-eastwards from Lake Eyre. He says (p. 40): "This increase in rainfall means that the tribes enjoying it lead an easier life, which condition has probably assisted them in making the social advance which I shall show later on has taken place, especially in those tribes living on the coast." But, as Lang points out ("Folk-Lore," vol. xvi., pp. 223, 224), the south-eastern tribes—at least, most of them—have a more primitive marriage organization than the rest of Australia.

before the settlement by Europeans.[3] As to the density of the native population in Tasmania, even less is known.

All we can say is that the average density of the native population of Australia can have been only a very small decimal to the square mile. The physical conditions forbid anything but the sparsest population throughout almost the whole extent of the continent.

The Australians and Tasmanians had no knowledge of agriculture. They were a race of wandering hunters and fishers, with no permanent settlements, made up of small groups ever on the move in search of the wild products of Nature. Their mode of subsistence forbade the formation of any fixed abodes. The tribe was made up of these small groups, which only assembled on certain occasions.

The number of distinct tribes was very great, probably several hundreds.

Spencer and Gillen, writing of the tribes of North Central Australia, observe that each tribe speaks a distinct dialect not understood by the

[3] It 1826 it was stated in Parliament that there were 1,832 blacks in New South Wales (*Science of Man*, Sydney, N.S.W., vol. iv., p. 71). J. Deniker ("Races of Man," p. 477) says that the census of 1851 gave the native population of Australia at 55,000, while that of 1891 gave it at over 59,000 (including cross-breeds), the increase being due to more careful compilation and the discovery of new districts. All such figures, however, are worthless, owing to the extent of unexplored country. Deniker remarks that "No positive proof has been obtained of diminution in the number of the natives of the interior, nor of those of the west and north coasts."

others; but that there is undoubtedly more affinity between certain tribes than between others, this being reflected in the dialects.[4] This observation holds good in general for the whole of Australia. But through all the differences of dialects runs a general identity of structure in the languages spoken all over the continent.

As regards the general culture of the Australian tribes, it is essential to bear in mind that, while there is undoubtedly a certain amount in common as regards social organization and customs, yet, on the other hand, there is also a great diversity.[5] This diversity may be noted in such points as the fixing descent through mother or father, the relation of the totem to descent, and the initiation customs.[6] This, indeed, is no more than we should be led to expect by the great area which these tribes occupy.[7]

[4] "The Northern Tribes of Central Australia," p. 11.

[5] Spencer and Gillen, "The Native Tribes of Central Australia," p. 34.

[6] *Ibid.*, p. 35. Nothing is known about these institutions among the Tasmanian tribes.

[7] Waitz ("Anthropologie der Naturvölker." part vi., p. 723) remarks on a rise in the culture level in the tribes as we go from south to north, owing to improved physical environment. But this statement must be held subject to many limitations (*cf.* note 2 above). Waitz holds the New South Wales tribes to be the least developed. This statement is not in accordance with our later knowledge.

II

ORGANIZATION OF THE AUSTRALIAN TRIBE: INTRATRIBAL GROUPS

§ 1. GENERAL: THE TRIBAL GROUP AS DIFFERENTIATED BY NAME, SPEECH, CUSTOMS, AND TERRITORY.

THE aim of this study is to examine into the customs which regulate the relations between certain groups belonging to the social organizations of primitive races, which groups are to be considered as the earliest forms of the more developed political groups.

The term "tribe" is generally used, with however little definite meaning, to indicate certain social groups at the lower stages of culture. We shall, therefore, begin by giving a sketch of the organization of the tribe in Australia.

This is the more necessary in this case owing to the fact that here the tribes have no permanent villages or dwellings, while their government is not very definite in form. These tribes represent almost the loosest known form of organization.[1]

[1] Moreover, there are as yet no complete accounts of the general organization of these tribes. Howitt has observed (Transactions of the Royal Society of Victoria, 1889, vol. i.,

" Every aboriginal inhabitant . . . is a member of a tribe "—that is, of a set of persons closely related in kinship, occupying practically in common and exclusively a tract of country, and bound together by the strictest alliance.[2] " Were a man to persist in disregarding the customs of his tribe, he would be killed by its members, unless he expatriated himself . . . and were a man (or family) to dwell alone, he would inevitably fall a victim to the enemies of his tribe. Hence, as a rule, there is no alternative between compliance with tribal customs and death."[3] It may be laid down that no person can exist, save as one of a tribal group.[4]

Howitt gives the following definition of a tribe :[5] " I use the word ' tribe ' as meaning a number of people who occupy a definite tract of country, who recognise a common relationship and have a common speech, or dialects of the same. The tribes-people recognise some common bond which distinguishes them from other tribes, usually a tribal name, which may be their word for ' man,'

part 2, p. 96) that the Australian race, as being so homogeneous and self-developed, offers an unequalled example of the social institutions of a primitive people.

[2] E. M. Curr, " The Australian Race," vol. i., pp. 61, 62. In giving references, the name of the work quoted from is generally not added to the author's unless more than one of an author's works are made use of. A list of authors and works will be found in the Bibliography at the end.

[3] *Ibid.*, p. 62.

[4] Curr (" The Australian Race," vol. i., p. 66) states that " tribes in Australia vary . . . from twenty-five persons in desert country to five hundred . . . or more where food and water are plentiful." But all such statements are unreliable (*cf.* also Curr, *ibid.*, vol. ii., pp. 119, 158; R. B. Smyth, vol. i., Introduction, pp. xxiii., xxxix.; vol. ii., p. 295).

[5] " The Native Tribes of South-East Australia," p. 41.

—that is, an aboriginal of Australia."[6] He goes on to observe that there are also groups made up of tribes very similar to one another. Such groups he calls "nations." We shall return to this point further on (see Chapter III., § 1).

Howitt also states :[7] "A distinction is drawn by tribes between themselves and aliens by some term applied to the latter, either of contempt or fear. Thus, while the Kurnai speak of themselves as 'men,' they give the name of Brajerak, from *bra* = men, and *jerak* = rage, or anger, to their neighbours, the Theddora . . . the Ngarigo . . . and Murring. . . . Those living in the Western Port district of Victoria they called Thurung, or 'tiger-snakes,' because, as I have heard them say, 'they came sneaking about to kill us.'"

It is, however, sometimes difficult to determine the true name of a tribe, for a member of a clan within the tribe will probably use the name of his clan, "and only on closer inquiry will give

[6] If the word for "men" is used, there is a prefix or suffix denoting "tribe" (or "people"), so that the whole name means "tribe of men." Another way of forming the tribal name is to use the word for "no" or "yes" (*cf.* Curr, "The Australian Race," vol. iii., p. 3).

Eyre ("Journals," etc., vol. ii., p. 330) observes: "As far as my researches have yet extended . . . it appears to me, first, that groups of natives have a distinctive or a local appellation, derived from the particular place they belong to; . . . secondly, a general or tribal name . . ."

So Mathews (*Journal of the Royal Society of New South Wales*, vol. xxxii., p. 66) says: "An Australian tribe has certain territorial limits, and is known by a general name, which is in most cases derived from the language spoken by its members."

[7] "The Native Tribes," etc., p. 41.

the name of the tribe of which that clan is a part."[8]

Spencer and Gillen, writing of the North Central Australian tribes, say[9]: "The names used are those by which the members of the tribes respectively call themselves, and which outsiders also apply to them. Thus, for example, the Arunta call themselves by this name, and it is used by the Kaitish in speaking of them. So, again, the latter call themselves Kaitish, and are called this by their neighbours, the Arunta, Warramunga, etc."[10]

We may conclude that the tribal group is, in the first place, marked off by a special name.[11]

A second way in which a tribe is generally marked off is by the use of a peculiar dialect.

The Australian aborigines all speak what is fundamentally one language,[12] but this is broken

[8] Howitt, "The Native Tribes," etc., Preface, p. xii. He adds that it is still more difficult to ascertain the name of a "nation" "that is of a group which includes two or more kindred tribes."

[9] "The Northern Tribes of Central Australia," pp. 10, 11.

[10] In the case of the Warramunga they are sometimes given a name by strangers equivalent to "the people who dwell on hard ground," which they do not use themselves, and which is not in any way equivalent to a tribal name.

[11] Spencer and Gillen ("The Northern Tribes of Central Australia," p. 11) observe: "It is remarkable how difficult it often is to ascertain the latter [the tribe's name] with certainty."

[12] Grey was one of the first to notice this general similarity of language throughout Australia. He relates ("Journals of Two Expeditions of Discovery in North-West and Western Australia during the Years 1837, 1838, 1839," vol. i., pp. 365, 366) how, meeting some natives on the north-west coast, he found that their dialect very closely resembled that of the Swan River district, although

up into a huge number of dialects, which in the more extreme cases may appear, even to a European, as different languages. In general, the natives of one tribe do not understand the dialects of any but their nearest neighbours among the other tribes ; each tribe has its own dialect,[13] though the variations in these dialects are of different degrees.[14]

A tribe will also in general be differentiated from others by some peculiarities of Organization and Custom. While there is, as in the case of speech, a general similarity in these respects throughout Australia, there are also considerable variations ; these may be very great in the case of tribes lying far apart, the direction of greatest variation, perhaps, being north and south. But this kind of differentiation is not very important in the case of neighbouring tribes.

The fourth way in which a tribe is differentiated from others is through the exclusive possession

the native with him who came from this district could not understand the others. Grey adds : " Wherever I have been in the southern portions of the continent I could soon understand the natives."

[13] *Cf.* also J. Dawson, "Australian Aborigines," p. 1 ; G. F. Angas, " Savage Life and Scenes in Australia and New Zealand," vol. i., p. 78. It is remarked by G. N. Teulon, in Curr, " The Australian Race," vol. ii., p. 186, speaking of the Upper Darling, that " The tribes are not sundered as of old ; the common misfortune [the Europeans] has drawn them together . . . tongues have become mixed." *Cf.* also same work, vol. ii., p. 274.

[14] These divergences of speech are in some areas counteracted by a very highly-developed gesture language, taking the place of an intertribal *lingua franca*. See W. E. Roth, " Ethnological Studies among the North-West-Central Queensland Aborigines," and " North Queensland Ethnography " (Brisbane).

and enjoyment by the tribal group of a defined territory. To this important point we shall return below (in Chapter IV.), merely referring to it here as a distinguishing mark of the tribe, and probably the most definite one.

But the determination of a " tribe " is to a great extent conventional and schematic. We have indicated four marks or attributes by which one tribal group is distinguished from others, but it must not be supposed that the tribe is always so clearly constituted and differentiated as the above statements might lead us to expect. It is true that in most cases careful observation and comparison enable the observer to determine definitely constituted groups to which the name " tribe " is applicable, but the matter is not always so simple.

There are two kinds of complication. The first is the existence of " nations " (see Chapter III., § 1)—that is, aggregates of similar tribes. It is not always easy to tell whether we have here to deal with one large tribe, with its local divisions, or whether we are to consider the lesser groups as true independent " tribes." The case is further complicated in that such " nations " have often each its name, while the dialects spoken by the component tribes may not vary more than is often the case with the smaller divisions within what is held to be one tribe. In such circumstances we must often be content to leave a margin of uncertainty to be eliminated, maybe, by more accurate observation.

The second complication is of the same kind as the first, only in an opposite direction. As we shall see below (§ 2), each tribal group is subdivided on a local basis into many smaller groups, each with its own share of territory, while within a tribe there may be considerable variations in the dialect. Thus, cases arise where it is hard to say whether we are dealing with a tribe, or merely with sub-tribes, or even small groups of families. Here again we have often to leave a margin of uncertainty.[15]

We conclude, therefore, that it is not always possible to give an accurate determination of the group which we are to consider as the tribe, and sometimes the fixation of the tribal group may have to be revised.[16]

[15] The same difficulties arise when we come to the more developed political groups; it is often hard accurately to define the nature of the relations between them.

[16] Howitt ("The Native Tribes of South-East Australia") gives several instances of this ambiguity. On pp. 58, 59 he says: "Within fifty or sixty miles of Maryborough, and including Great Sandy Island, there were many tribes, or it may be tribelets or clans of one great tribe. I have not been able to satisfy myself on these points, although my informant [H. E. Aldridge] has had exceptional opportunities of observation, from the time of his boyhood. He, however, calls them tribes, and I have followed him in doing so." On p. 61 is a list of thirteen "tribes" living near the Kuinmurbura (Rockhampton) which are not regarded by the Kuinmurbura "as belonging to themselves." "My correspondent," Howitt says, "speaks of these as tribes, and the area occupied by them is so considerable that it supports this view; but on the other hand their names [all ending in 'bura'] suggest 'local divisions' of a large tribe. I am not able to decide this matter, and my correspondent is not now available." On p. 62, speaking of the Wakelbura (East Central Queensland), he observes: "It is somewhat uncertain whether the Wakelbura is to be considered as a tribe, a sub-tribe, or merely a horde of a large tribe." On pp. 64, 65 he says: "The particulars given as to the tribes of this part of Australia [*i.e.*, Queensland] are a good

These two complications, together with the frequently loose statements of observers, make it often difficult to gather whether we are dealing with inter-tribal or with intra-tribal relations.

But, so far as Australia is concerned, the matter is unimportant for the purposes of primitive jurisprudence; the structure of the tribe is so loose that the true units in whose relations we may trace the beginnings of International Law are the intratribal local groups to be described below (see § 2).

Except, perhaps, in respect of war proper,[17] there are no marks by which the relations between these local groups within the same tribe are distinguished from relations between local groups belonging to different tribes. The tribal unity is unimportant, and for our purposes the ultimate units are certain local groups irrespective of the tribe to which they belong, the local group which we fix upon being that one which has a headman or headmen. The structure of the tribe is so loose that it seldom acts as a unity;[18] relations take place between the local groups thus determined.

Though, up to Chapter VIII., nearly all our instances are taken from the relations between

instance of the manner in which a large tract of country claimed by any one tribe is parcelled out among its lesser divisions. It is in such cases most difficult to decide whether one has to do with a single tribe, with a group of sub-tribes, or a number of . . . hordes . . . or clans. . . ."

Fraser, for example ("The Aborigines of New South Wales," p. 36), declares that the tribes of New South Wales are not more than eight in number.

[17] See below, Chapter IX.

[18] Perhaps the gatherings for ceremonials are the only cases where we may have an assembly of the whole tribe.

groups belonging to different tribes, this does not imply that the tribal unity brings any modification.

Just as in Justice (Chapter VIII.) there is no distinction observable whether the local groups are within the same or different tribes, so for the other relations.

We may summarize the facts by saying that a tribe is a mere aggregate of certain local groups, distinguished from other local groups only by certain common, more or less distinctive, peculiarities, which hardly, if at all, condition the intergroup relations within the tribe. This is more explicitly brought out in the chapter on Justice.[19] There would seem to be, however, certain tribal rights over the smaller subdivisions of the tribal territory,[20] but the loose use of the term " tribe " by most authorities must here be borne in mind.

§ 2. THE LOCAL ORGANIZATION OF THE TRIBE.

An Australian tribe is organized on a twofold basis : firstly, local ; secondly, on the basis of a

[19] *Cf.* Cunow, p. 121 : " Zwischen den australischen Stämmen und den nordamerikanischen ist ein grosser Unterschied. Bei den nordamerikanischen Indianern finden wir durchweg den Stamm als eine in sich abgeschlossene, nach aussen gemeinsam auftretende Körperschaft mit einer Art Stammesverfassung und eigenen besonderen Kultusverrichtungen ; bei den Australiern hingegen ist nichts dergleichen vorhanden, selbst bei den höchstentwickelten Stämmen nicht. Der australische Stamm ist nur ein loses Aggregat autonomer Horden, die Dialekte derselben Sprache reden und ziemlich dieselben Gebräuche und Satzungen aufweisen ; ein solidarisches Ganze mit bestimmten Funktionem darf man sich darunter niemals vorstellen. . . . Von einer Art Stammesgefühl ist meistens kaum etwas zu merken." (For translation see the Addenda.)

[20] See § 3 (Conclusion) and note 112, below.

classification for purposes of fixing the descent of members, and for marriage.

We shall deal first of all with the Local Organization.[21]

(*a*) *South-Eastern Australia.*

In this area, lying roughly south-east of a line drawn from the head of the Great Australian Bight at Port Eucla, to the intersection of the Queensland coast with latitude 22½° S., we find that the tribal territory is divided into lesser areas, each of which belongs to a corresponding local division of the tribe ;[22] these are again subdivided, until we get down at last to the smallest local subdivision of the tribal territory,[23] which is the small tract claimed and exclusively occupied by the smallest tribal subdivision ; this last may be called the "undivided family," and consists of a number of persons very closely related, and having a common descent from a known ancestor,

[21] General accounts of the organization of an Australian tribe will be found in the following : Howitt, in Transactions of the Royal Society of Victoria (1889), vol. i., part 2, pp. 96-137 ; Howitt, "The Native Tribes of South-East Australia," pp. 44-87 ; Spencer and Gillen, "The Native Tribes of Central Australia," pp. 8-12, 16, 32-34, 126 ; "The Northern Tribes of Central Australia," pp. 27, 28 ; John Mathew in *Journal and Proceedings of the Royal Society of New South Wales*, vol. xxiii., pp. 335-449 ; R. H. Mathews in same journal, vol. xxxii., pp. 66-68, vol. xxxiv., pp. 120-135.

Howitt calls the organization for descent and marriage the "social" organization, but this is too narrow a use of the term "social."

[22] Often called a "sub-tribe."

[23] "The Native Tribes," etc., p. 49. Howitt's statement is in this form, but the information is not clear as to how many, if any, subdivisions there are between the "family" and the widest of the local subdivisions.

together with their wives.[24] These local groups are permanent, though in each case the marriage-classes and totems of the members will change with each generation where maternal descent is the rule.[25] In this latter case there is no coincidence between the local divisions and the marriage-classes and totems, but where there is descent through the male line we find cases in which all the people in a certain locality have the same class-name and totem.[26] The sons inherit or occupy as a birthright the country hunted over by their fathers.[27] In any tribe the aggregate of the local divisions coincides, of course, with the aggregate of marriage divisions.

Each primary local division of the tribe has its special name.[28] Howitt calls such local divisions " clans " where descent is through the father, and " hordes " where descent is through the mother.[29] In certain cases of development, as among the Kurnai (Victoria) and Chepara (South Queensland), exogamy has passed over to the local groups.

We may here give evidence in support of these statements.

The *Dieri* (Lake Eyre) are divided into five hordes, which are again subdivided locally.[30]

Taplin says of the *South Australian* tribes[31] that each one is divided into clans, though in each tribe all the members have the same language and

[24] Howitt, Transactions of the Royal Society of Victoria (1889), vol. i., part 2, p. 101.
[25] *Ibid.*, p. 102.
[26] Howitt, " The Native Tribes," etc., p. 42.
[27] *Ibid.*, p. 47.
[28] *Ibid.*, p. 42.
[29] *Ibid.*, p. 43.
[30] *Ibid.*, p. 46.
[31] " The Folklore," etc., p. 11.

customs. Each clan, he says, has its own symbol and name. The members of each clan are held to be blood-relations, and there is complete solidarity between those members—men, women, and children—in each case. The clans are exogamous.

But this statement of Taplin's needs qualification. In the case of the Pankala, Narinyeri, and some other tribes of South Australia, the local divisions, descent divisions, and totems coincide ;[32] but this is not true of all South Australia, as in Taplin's above statement. Such coincidence, perhaps, represents a more advanced stage in social evolution.

Eyre[33] found the *Lower Murray* tribes scattered in small groups over the tribal district in each case. If, however, there was a special abundance of food in a particular place, they would congregate there.

In *Victoria* the Gurnditch-mara (West Victoria) were divided into four local groups.[34]

In South-West Victoria, Dawson found at least ten languages or dialects. Howitt[35] assumes there were the same number of tribes. In each case the tribal territory was divided between its members, and each family had the exclusive right by inheritance to a part, which was named after its owner. Every child born on it was named after some object there.[36]

[32] Howitt, "The Native Tribes," etc., pp. 67, 68; Taplin, "The Folklore," etc., p. 34.

[33] "Journals," etc., vol. ii., p. 218.

[34] Howitt, "The Native Tribes," etc., p. 69.

[35] "The Native Tribes," pp. 69, 70.

[36] Dawson, "Australian Aborigines," p. 7.

The Bangerang (North Victoria) were divided into independent local groups, "but they were virtually one for the purposes of war."[37]

As regards the Kurnai, Howitt states[38] that some of the natural products of an area might be appropriated by the "division" dwelling therein, but the area would be left free in other respects to all Kurnai tribesmen.

He likewise states[39] that the hunting-grounds of certain families were carefully defined, and, if necessary, protected as to certain food, and trespassers warned off.

The first statement is important, as indicating tribal rights over the smaller local divisions.

In *New South Wales* Collins found[40] the natives about Port Jackson living "in a state of nature," distributed into families, each under a head. Each family had "a particular place of residence, from which is derived its distinguishing name."

The Muring (in the south-east) were made up of two sub-tribes called "North" and "South." They were also divided into the Coastmen, the Inlanders, and the Mountain-men.[41]

Howitt observes[42] of the coast tribes in New South Wales that "claims to particular tracts of country arose in certain of these tribes by birth." When a child was born, certain bounds were

[37] Curr, "Recollections of Squatting in Victoria," p. 246.

[38] Fison and Howitt, "Kamilaroi and Kurnai," p. 226.

[39] *Ibid.*, p. 232.

[40] "An Account of the English Colony in New South Wales," vol. i., pp. 544, 545.

[41] Howitt, "The Native Tribes," etc., pp. 81, 82. This statement is not wholly clear.

[42] *Ibid.*, pp. 82, 83.

pointed out as being those of the child's country, and he had the right of hunting over it.

Among the Kamilaroi (in the south) the hordes occupied each its own portion of tribal territory as its " taurai," or food and hunting ground. The boundaries were well defined, and a stranger might not pass across them in search of food.[43]

Fraser says[44] of the New South Wales tribes that " These tribes have their subdivisions, each with a ' taurai ' of its own, and the sub-tribe is called by the name of some local feature of its ' taurai,' . . . and this principle of subdivision goes down even as far as the clan and the family. For to each family is allotted a portion of the local ' taurai.' . . ."

In *Queensland* the tribes about Maryborough and on Great Sandy Island were made up of local divisions, each with its own hunting and food ground. " The still smaller groups were little more than undivided families, consisting of several generations . . . occupying areas of about ten miles radius. A number of such families hunted over the same area. . . ."[45]

The Turbal on the coast of South Queensland were divided into local groups, which met together at set times.[46]

The Chepara were divided into " clans," and then into " local groups."[47]

[43] Naseby, in Howitt, " The Native Tribes," etc., p. 57.

[44] " The Aborigines," etc., p. 36.

[45] Howitt, " The Native Tribes," etc., p. 59. This not wholly clear statement may be taken to mean that the local subdivision was made up of undivided families ; but to a certain extent there was family property in the land.

[46] *Ibid.*, p. 86.

[47] *Ibid.*, p. 86.

Some special points arising in connection with the relations between the local groups within the tribes of this area may now be noted. Fraser[48] states of the New South Wales tribes that their "taurai" is jealously guarded, even in the case of sub-tribes or local divisions. He gives an incident showing this. One of the Walarai divisions had so increased in numbers that their hunting-ground would not support them. They sent their public messenger to one of the adjoining sub-tribes, asking for a part of the latter's land. This was refused, as being against tribal law, and also because the "taurai" in question was not big enough to admit of the proposal. The former sub-tribe then sent to say they would come and take what they wanted. The latter answered that in that case they would appeal for justice and help to the neighbouring sub-tribes. Hereupon both sides prepared for war, and met, and, as usual, much talking and angry speech-making followed. It was at last agreed that next day an equal number from each side should fight it out, but when the time came the dispute was settled by single combat.[49]

However, a man going on a visit or on business may pass freely from any one locality within the tribal boundaries to any other, and wherever he comes he is received with hospitality.[50]

[48] "The Aborigines," etc., p. 37.

[49] Fraser adds: "This is the common cause and issue of a tribal quarrel." The case is important, as showing how carefully the tribal subdivisions are maintained, and, further, as showing that the relations between the intratribal groups are of the same nature as those between the tribes.

[50] *Ibid.*, p. 37.

The Kurnai (East Victoria) give us an example of a case where the local groups are very independent. This tribe, occupying an area of 200 miles by 70 miles, was divided into five local groups or clans.[51] Within the tribe there were three mutually more or less unintelligible dialects. The clans were divided into lesser groups, each with a special name, in some cases locally derived. These sections were again divided and subdivided, each subdivision having its own hunting and food ground, " until the unit was a small group of kindred, frequently an old man, his sons, . . . with their respective wives and children.[52] Taking such a family as the tribal unit of the Kurnai, it was the aggregation of such families which formed what may be called a division,[53] inhabiting a large area, and the aggregate of the divisions formed the clan."[54]

As between the clans or the divisions of the Kurnai, there were pitched battles and blood-feuds in the case of offences held to involve the other members. If it was only an individual's offence, he had to undergo the ordeal of spear-throwing from the offended division or clan.[55] The Kurnai are a case where the tribal unity seems on the point of passing over to an aggregation of independent tribes. The relations between their clans are barely distinguishable from intertribal relations.

[51] Howitt, " The Native Tribes," etc., pp. 73, 74.

[52] *Ibid.*, p. 73.

[53] The " division," Howitt says, consisted of families closely related through the father (" Kamilaroi," etc., p. 215).

[54] " The Native Tribes," etc., p. 74.

[55] " Kamilaroi," etc., pp. 216, 224. *Cf.* below, Chapter VIII., § 3 (i) (*c*) (p. 136).

(*b*) *Central Australia* (*Lake Eyre, northwards*).

Spencer and Gillen have very fully described this area. Taking the Arunta as type, the tribe is distributed into a large number of small local groups, each of which possesses and occupies a certain well-defined area within the tribal territory. In speaking of themselves, the natives call any such local group by the name of its locality.[56]

Also a number of such separate groups will often be spoken of collectively by one name.[57]

Besides this, the natives speak of different divisions of the tribe according to the direction of the country which they occupy.[58] There is a further system of division founded on the totem, which cuts across the former. In these tribes, however, the totems do not regulate marriage, but are names of local groups.

We find such groups of individuals describing themselves by the name of some animal or plant. Thus, one area will be found belonging to a group who call themselves "kangaroo men," another belonging to "emu men," and so on, almost every animal and plant found in the country having its representative among the tribesmen. The area occupied by each of this set of divisions will be designated as the Local Totemic Group. It varies in extent considerably, but is never very large.[59]

[56] Spencer and Gillen, "The Native Tribes," etc., p. 8; "The Northern Tribes," p. 27. The present interpretation of the accounts for Central Australia must be taken with caution.

[57] "The Native Tribes," etc., p. 8. [58] *Ibid.*, p. 9.

[59] "The Native Tribes," etc., p. 9; "The Northern Tribes," etc., p. 27. The largest totemic group met with consisted of forty individuals occupying about 100 square miles. One such group ("plum-tree") is to-day represented by one individual occupying only a few square miles.

But local groups with the same designation will be found in many parts of the tribal district. There are, for example, various local groups of kangaroo folk, each one having its headman ("Alatunja").[60]

In a large tribe, such as the Arunta, the contiguous local totem groups are aggregated roughly into the purely geographical group with a name which we described in the first place.[61]

The unit for the purpose of territorial rights within the tribe would seem to be the lowest of these purely local groups, not the totem group.

The information given by Spencer and Gillen on this point is not perfectly clear or consistent. It seems, however, to indicate that the totemic areas are of religious significance only. In their "Native Tribes," p. 126, they state: "The whole district occupied by the Arunta [and the Ilpirra and Kaitish] can be mapped out into a large number of areas of various sizes, some of which are actually only a few square yards in extent, while others occupy many square miles, and each of which centres in one or more spots, for which the native name is Oknanikilla. . . . Each of these represents a spot where Alcheringa ancestors either originated or . . . camped," and the Churinga (*i.e.*, sacred symbol) continues to produce actual men and women (*i.e.*, those born within the area) who bear the Churinga's totem name. It is clear, they add,[62] that the totemic system of the Arunta and other Central Australian tribes [excluding the Urabunna] differs in important respects from those of other hitherto described tribes.

The same writers state[63] that the local groups are composed largely, but not exclusively, of individuals of a particular totem. When they say[64] that "in every case the unit of division is the local totemic group," it would seem that this only applies as regards ceremonial purposes.

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[60] "The Native Tribes," etc., p. 9; "The Northern Tribes," etc., p. 28.

[61] "The Northern Tribes," etc., p. 28.

[62] *Ibid.*, p. 127.

[63] "The Native Tribes," etc., p. 9.

[64] "The Northern Tribes," etc., p. 27.

Each of these purely local groups we find split up into small parties of one or two families, which wander over the said group's territory, camping at favourite spots.[65]

This existence of two systems of local divisions among the Arunta and other central tribes is worthy of special note.

In " The Native Tribes," p. 14, it is remarked that with the Arunta the local feeling is very strong : " Without belonging to the same group, men who inhabit localities close to one another are more closely associated than men living at a distance from one another, and . . . this local bond is strongly marked—indeed, so marked was it during the performance of their sacred ceremonies, that we constantly found it necessary to use the term ' local relationship.' Groups which are contiguous locally are constantly meeting to perform ceremonies," under the direction of the headmen. As to the solidarity of the totemic divisions, we find[66] that the members of a totem are not bound together so that all must fight for each; such solidarity occurs only in the marriage classes, with which in these tribes the totems are not connected. The importance of the totem in these tribes lies in that with them, unlike what obtains in so many of the hitherto described tribes, " the totem has nothing whatever to do with regulating marriage; nor, again, does the child of necessity belong either to its mother's or its father's totem."[67] The importance of the local bond among the Arunta will also be seen in the chapter on Justice.

(*c*) *North-East Queensland.*

The tribes about Herberton are subdivided into smaller local groups,[68] each with well-defined limits, and, as a rule, on friendly terms with one another. Such " family tribes " consisted of twenty to twenty-five individuals at most.

[65] " The Native Tribes," etc., pp. 16. 31. However, we should advise caution with reference to our statement that we have here to do with " purely local groups."

[66] *Ibid.*, p. 34. [67] *Ibid.*, p. 34. [68] Lumholtz, p. 176.

In each of the sub-tribes the members knew their own country well ; but outside its borders they felt insecure ; still more so when they entered another tribe's domain. A tribe is estimated by Lumholtz to contain about 200 to 250 individuals.[69]

(*d*) *West Australia.*[70]

James Browne found[71] four tribes around King George's Sound, each with its own territory and name ; each territory was divided among families or individuals, the tribe being made up of many tribelets. These sections or families each formed a camp of six to eight huts. The tribe seldom assembled except to journey to a "distant district," or to discuss important questions.[72]

A recent observer[73] in South-West Australia found the tribal land divided among smaller groups ; as long as these were friendly they hunted over one another's property, otherwise the boundaries were strictly maintained.

Salvado[74] observes: "Beaucoup d'Européens ont prétendu appliquer le mot 'tribu' à des réunions de six sauvages ou même de moins. . . . Je ne pense pas que cette dénomination soit parfaitement exacte ; car, pour ce qui est à ma connaissance, chaque famille est indépendante et gouvernée par son chef. . . . Ainsi les Australiens au lieu de se gouverner par tribus, paraîssent se gouverner à la manière patriarcale : chaque famille, qui généralement ne compte pas plus de six à neuf individus, forme comme une petite société, sous la seule dépendance de son propre chef."

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[69] Lumholtz, pp. 176, 177.

[70] Our knowledge of these tribes is very scanty.

[71] "Petermann's Mittheilungen" (1856), pp. 445, 446.

[72] *Ibid.*, p. 448.

[73] Mrs. D. M. Bates, in her paper, "The West Australian Aborigines." *Cf.* also her remarks on West Australia in general.

[74] "Mémoires Historiques sur l'Australie," pp. 264, 265. His observations were made in the Swan River district.

(*e*) *Tasmania.*

Of the tribal organization of these natives practically nothing is known; the limits of the tribal territories are likewise very imperfectly known.[75]

There were perhaps twenty tribes, divided on a language basis into four main groups, but the number of distinct tribes, as also their boundaries, is uncertain.[76]

Walker sums up as follows:[77]

1. The aboriginal population did not probably exceed 2,000.

2. There were four main groups of tribes, divided by strongly-marked differences in speech.

3. There was complete isolation as between certain of these groups.

4. Within these groups each tribe and sub-tribe probably occupied a definite and special territory.

5. The tribes within each group, though generally leagued together, were at times at feud.

§ 3. THE EXTENT OF TERRITORIAL SUB-DIVISION—PROPERTY.

We have seen that each tribe has a defined territory, and that this is subdivided into smaller

[75] See J. B. Walker in Proceedings of the Royal Society of Tasmania, 1897, p. 176. Writers here, as elsewhere, have made a very loose use of the term "tribe," sometimes applying it to a sub-tribe, sometimes to what is really a group of tribes (Walker, *loc. cit.*).

[76] H. L. Roth, "The Aborigines of Tasmania," p. 165.

[77] Proceedings of the Royal Society of Tasmania, 1897, p. 187.

areas owned by sub-groups. It remains to examine how far this process of subdivision goes down, and, finally, whether there is individual ownership in the Australian tribes.

In a race of wandering hunters like the Australians there are few things, other than the land and its natural products, which can be objects of ownership. Such few articles are weapons, utensils, clothing, and dogs. They were, indeed, the property of individuals; but all accounts bear witness to the fact that the Australian was in the constant habit of giving away to his friends even these few things. Early travellers found that their presents were given away again several times over within a few days. This approximation to communism is seen also in the strict rules which compelled the division of game and all natural products among certain individuals belonging to a man's family or camp, or who had helped in the capture.[78] However, the well-established system of bartering which we shall describe later points to the existence of a clear recognition of individual or family ownership in personal property.

We find Taplin, however, stating[79] of the South Australians that "in the clan there can be no personal property . . . all implements, weapons, etc., belong to the members collectively. . . . If he [the native] has a weapon, or net, or canoe, which is in some sense his own, he knows that his property in it is subject to the superior rights of his clan."

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[78] *Cf.*, for certain New South Wales tribes, Fison and Howitt, "Kamilaroi and Kurnai," pp. 261-267; for West Victoria, Dawson, p. 22.

[79] "The Folklore," etc., p. 11.

It is probable, on the whole, that the degree in which individual ownership in personal property was recognized varied among the tribes, just as there seem to have been differences in the ownership of land.

It is from the Arunta and kindred tribes that we have some of the few clear statements on this point;[80] in these tribes (forming the Arunta "nation") each individual has not only his own personal chattels, weapons, and implements, but he has also sacred objects, such as "churinga" (totemic objects), which to a certain extent are regarded as his property, though kept in the sacred storehouse of his local group. His chattels he may give away in his lifetime, though after his death they are inherited only by certain individuals. But the "churinga" must always go in a certain line, whether by inheritance or by gift. This holds also for the Kaitish and Unmatjera, but in the Warramunga the "churinga" descend like ordinary chattels.[81]

In a great many of the other tribes of this area, on a man's death his chattels go to his mother's clan-brothers, or to the men of his son-in-law's clan, so that everything goes to men of the phratry to which the dead man's mother belonged. The women get nothing but the yam-sticks.[81]

W. E. Roth states[82] of the North Queensland tribes that on the death of a man his brothers get the spears, wives, and other property, the eldest

[80] Spencer and Gillen, "The Northern Tribes," etc., pp. 615, 616.

[81] *Ibid.*, p. 617.

[82] "North Queensland Ethnography," bulletin 8, p. 9.

surviving blood-brother having first claim. Among the Kurnai of Victoria there seems to be the rudiments of a law of inheritance in any valuable personal property.[83] Chattels in general were divided among the nearest relations in the case of the Gurnditch-mara.[84]

Smyth says [85] of the Victoria tribes in general that the only property claimed by a native is his wife, weapons, clothes, and name. "I believe the members of a tribe never pilfer from each other. Yet . . . they would not consider the act of pillaging base when practised on another people or carried on beyond the limits of their own tribe."

From these few indications as to personal property we now go on to the question of the subdivision of the tribal territory, and the resulting forms of property in the land and its natural products.

The evidence is sometimes conflicting, and in general not wholly clear.

In the central area, Spencer and Gillen state[86] there is no such thing as one man being regarded as the owner of any tract of country.

Smyth, writing more particularly of the Victoria tribes, says[87] that they have no separate property in any living animal except their dogs, nor in any produce of the soil.

But from South-Eastern Australia there is a great deal of evidence which indicates at least the beginnings of individual or of family ownership

[83] Fison and Howitt, p. 245. [84] *Ibid.*, p. 277.
[85] "The Aborigines," etc., vol. ii., pp. 278, 279.
[86] "The Northern Tribes," etc., p. 27.
[87] "The Aborigines," etc., vol. ii., pp. 278, 279. *Cf.* also *ibid.*, vol. i., p. 147.

in the land or its products.[88] Among the Kurnai, in a certain district, the eggs of the black swan were claimed by a man and his nephew by right of inheritance.[89]

Among the tribes of Western Victoria the tribal territory was divided among its members ; each family inherited exclusive rights to a part of the tribal lands. "No individual of any neighbouring tribe or family can hunt or walk over the property of another without permission from the head of the family owning the land. A stranger found trespassing can legally be put to death."

The land is divided for inheritance between the widow and children of both sexes ; if there are no children, it is divided among neighbouring families.[90]

Of the Bangerang (North Victoria), Curr states as follows :[91] "Besides the fact that the Bangerang territory was parcelled out between the two sub-tribes, and that fishing-weirs on the numerous channels which conducted the flood-waters back into the Murray were owned by individuals, and descended to their heirs, I recollect, on one occasion, a certain portion of country being pointed out to me as belonging exclusively to a boy who formed

[88] Howitt's statement in the Transactions of the Royal Society of Victoria (1889), vol. i., part 2, p. 102, that "the hunting-grounds which a man roams over are left by him to his sons," is a loose statement. It need not be an assertion of private property, but may be merely meant to express the fact that there are permanent local groups occupying defined areas.

[89] Fison and Howitt, p. 232. It is to be noted that Howitt's statements about this tribe do not make it certain that the tribal area was divided into *exclusive* "divisions" (belonging to groups of families).

[90] Dawson, p. 7.

[91] "Recollections," etc., p. 243.

one of the party with which I was out hunting at the time."

He says again:[92] "On two other occasions also, if I remember right, some blacks objected to hunt with me over certain land, on the plea that it did not belong to them. That both individuals and families amongst the Bangerang had particular rights to certain lands I have no doubt, but practically they were little insisted on. Had, however, anyone not of the tribe attempted encroachments, it would have been an instant *casus belli*." This last part is to be noted as implying over-rights belonging to the tribe.

Howitt says[93] of the Wurunjeri of Victoria: "The right to hunt and to procure food in any particular tract of country belonged to the group of people born there, and could not be infringed by others without permission. But there were places which such a group of people claimed for some special reason, and in which the whole tribe had an interest. Such a place was the 'stone quarry' . . . near Lancefield, from which the material for making tomahawks was procured." In this case there was a family proprietorship, which, through descent and marriage, included people in other tribes. But it was the head of the family, whose country included the quarry, who lived on it, and took care of it for the whole of the Wurunjeri; and he and his forbears for generations worked at splitting the stones, which were in the case of other tribes bartered. Here again Howitt's statements point to tribal overrights.

Smyth, writing more particularly of Victoria, says[94] that though the land occupied by each tribe and its products were the "common property of the tribe," and the members could hunt over it, and gather its products, "there were some obscure personal rights of property. Members of the tribe, it is said, had lands which they called their own; the right to such lands descended from generation to generation. And these rights were respected by all, and jealously guarded by the proprietors." Yet he doubts the existence of anything like private property. His statement, anyhow, clearly implies the existence of tribal overrights, or at least of those belonging to the primary local groups.

[92] "Recollections," etc., p. 244.

[93] "The Native Tribes," etc. pp. 311, etc. In this case we see a recognition of the ownership rights of non-tribesmen.

[94] "The Aborigines," etc., vol. i., pp. 144-147.

The existence of private property in land is definitively denied by Fison and Howitt[95] in the case of the Gurnditch-mara of Victoria.

From New South Wales we have indications of private property in land.

Fraser says of this area[96] that the principle of sub-division of the tribal territory goes down "even as far as the clan and the family. For to each family is allotted a portion of the local 'taurai,' from which it may obtain its supplies of food, and sometimes a dying chief has been known to say that he wished to give some particular part of it to a favourite son."[97]

Collins[98] confirms this as to the tribes about Port Jackson: ". . . Strange as it may appear, they have also their real estates. Ben-nil-long, both before he went to England and since his return, often assured me, that the island Me-mel (Goat Island) . . . was his own property; that it was his father's, and that he should give it to By-gone, his particular friend. . . . He told us of other people who possessed this kind of hereditary property, which they retained undisturbed."

We find the same fact stated of the Lachlan River tribes: "Every family had their own hunting-ground, and the family's mark was placed about the ground."[99]

[95] "Kamilaroi and Kurnai," p. 277: ". . . There was no individual property in land. . . ."

[96] "The Aborigines," etc., p. 36.

[97] Yet this writer adds (*ibid.*): "This looks like a claim to private ownership in land, but, as that is opposed to the communal system which prevails in all the tribes, I would not admit the force of this evidence until it is established on better ground."

[98] "An Account," etc., vol. i., p. 599.

[99] *Science of Man*, March, 1897, p. 81.

Of certain tribes in South Queensland, John Mathew says[100] that in the bunya country individuals claimed special trees as their own ; but generally everybody had the range of the whole forest. This statement is confirmed by another observer.[101]

Eyre, who was more particularly acquainted with the Lower Murray tribes, was of opinion that the natives had ideas of private property in land. He says[102] that each tribe had its own territory, of varying extent : " These districts are again parcelled out among the individual members of the tribe. Every male has some portion of land, of which he can always point out the exact boundaries. These properties are subdivided by a father among his sons during his own lifetime, and descend in almost hereditary succession. A man can dispose or barter his lands to others ; but a female never inherits, nor has primogeniture among the sons any peculiar rights or advantages."[103]

W. E. Roth, writing of North Queensland, gives us the most definite information in this connection.[104] Independently of the tribal territory as a whole, " there are definite territorial divisions, certain tracts of country for each family," each one with a distinctive name. The native has an intimate knowledge of the productions of this tract in each case.

" For one family or individual to obtain vege-

[100] *Journal of the Royal Society of New South Wales*, vol. xxiii., p. 395.

[101] Petrie, in Howitt, "The Native Tribes," etc., p. 768 : "A father gives certain [bunya] trees to his sons. . . ."

[102] " Journals," etc., vol. ii., p. 297.

[103] *Cf.* also what Eyre says at vol. ii., p. 301. Eyre quotes Grey, " Journals," etc., vol. ii., pp. 232-236 in his support.

[104] " North Queensland Ethnography," bulletin 8, pp. 8, 9.

table, fowl, or meat without permission upon the land belonging to another family constitutes trespass and merits punishment," though this is not usually of a serious character, "unless a non-tribesman is concerned." "Trespass is, after all, but rarely committed, considering that, on account of their very hospitality, when one family experiences a superabundance of food of any description, its friends and neighbours are generally invited to come and partake of it. For a non-tribesman to trespass means death, and the risks run on occasion are enormous."

Here we have a distinct recognition of the rights of the tribe as a whole over all its territory shown by the difference of the punishments.

Roth further says (p. 9): "As far as can be ascertained inheritance in land passes through the blood-brothers and blood-sons, who claim it conjointly, the last survivors of these ultimately owning it, whence it passes through their blood-sons, and blood-sons' blood-sons conjointly again." Thus land keeps always in the same two marriage-groups. There is an instance (Bloomfield River) where certain zamia plants (edible) are bequeathed by each woman to her daughters or other kinswomen.

From West Australia there are also indications of the existence of private (or family) ownership in land.

Grey says:[105] "Landed property does not belong to a tribe, or to several families, but to a single male; and the limits of his property are so accur-

[105] "Journals," etc., vol. ii., p. 232.

ately defined that every native knows those of his own land, and can point out the various objects which mark his boundary."[106]

He adds:[107] "A father divides his land during his lifetime . . . amongst his several sons. . . . If the males of a family become extinct, the male children of the daughters inherit their grandfather's land."

Waitz also refers to such inheritance of land in North and South Australia.[108]

Salvado[109] says there is hereditary private ownership in land, adding: "En conséquence, chaque famille s'approprie une espèce de district, dont cependant les familles voisines jouissent en commun si l'on vit en bonne harmonie. Qu'ensuite un ennemi ou un étranger vienne à y être surpris, il est puni de mort par le propriétaire." Here again we have an indication of tribal overrights.

Grey observes[110] that the punishment for trespass is death, if the offender is taken in the act, otherwise it may be atoned for by a so-called ordeal punishment. At the great tribal hunts the owner of the land must have invited the others and be present himself. If[111] two or more men have common hunting rights over a tract, any one of them can set up an ownership in the grubs in a particular tree by breaking off the top.

Browne maintains[112] that there was hereditary private ownership in the tribes around Albany; but that it was hard to say wherein the rights of property consisted, for the members of the tribe hunted over one another's land. It was only in

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[106] Following Grey's statement is a letter (pp. 233-236) from one Dr. Lang of Sydney, who declares most positively that the tribal lands and their game and products are divided among the individual members. Lang seems to refer more particularly to New South Wales. Smyth rejects Grey's statement.

[107] *Ibid.*, vol. ii., p. 236. *Cf.* also what Mrs. D. M. Bates says in this connection in her paper, "The West Australian Aborigines."

[108] "Anthropologie," etc., part vi., p. 793.

[109] "Mémoires," p. 265. [110] "Journals," etc., vol. ii., p. 272.

[111] *Ibid.*, vol. ii., p. 289.

[112] "Petermann's Mittheilungen," 1856, p. 445.

relation to members of foreign tribes that matters were definite: any infringement by them was an offence. It was only in this last case, says Browne, that the idea of property showed itself. Nind[113] declares there is private ownership in land about the Swan River, but that it must "be considered as partly belonging to the tribe." The owner has to be present when a tract is fired for game.[114] In the last two quotations we again have indications of tribal overrights.

Conclusion.

Our information shows the existence in some, at any rate, of the areas of Australia[115] of what must be held to be private ownership in land, but it does not follow that the whole of the tribal territory was so allotted. The unit would generally be the undivided family, but there are a few indications that the ownership might even be vested in single persons within a family other than the head.

The clearest mentions of individual or of family ownership seem to come from the south-eastern area, where the physiographical conditions are most varied, and where, in consequence, fishing rights became important.

But it seems likewise that the rights of families or of individuals, as also those of the local groups, were, in general, subject to tribal overrights,[116] though we have not clear information on this point.

[113] *Journal of Royal Geographical Society*, vol. i., p. 28.

[114] *Cf.* further, with all the above, Thomson in *Science of Man*, vol. v., p. 15. H. Ling Roth ("The Aborigines," etc., p. 59) declares, on West's authority, that the Tasmanians had no private ownership in land.

[115] See also the instances referred to in notes 36, 39, 40, 44, 45, 52, 71, above.

[116] *Cf.* the references in notes 38, 92, 93, 94, 100, 104, 109, 110, 112, 113.

We must likewise bear in mind the loose way in which the term " tribe " is used ; it is constantly confounded with the smaller local group within the tribe.

§ 4. GOVERNMENT.

The loose structure and the wandering habits of the Australian tribes, together with the absence of permanent settlements, lead most of the early observers to deny the existence of any form of government.[117] But more careful observation has shown that though the forms are not very precise, there undoubtedly exist the rudiments of a regular government over and above the mere authority belonging to the head of each family.

It is clear that the individual Australian is under the authority of well-understood customs or laws throughout his life, by which his relations with his fellows and with his physical environment are effectively controlled.[118] Many of these customs are obeyed under supernatural sanctions, such as those dealing with food restrictions, and sometimes the keeping secrecy as to ceremonials, and so on.[119] But the sanctions for many rules of conduct come from the local group, and are not supernatural ; such are those observed in the various forms of justice with which we shall deal in Chapter VIII. below. This system of regulated

[117] *Cf.* Angas, vol. i., p. 88, and many others.

[118] *Cf.* Howitt, Transactions of the Royal Society of Victoria (1889), vol. i., part 2, p. 103.

[119] *Cf. ibid.*, p. 103.

justice points to some form of authority to enforce it.[120]

Howitt sums up[121] the evidence from the south-eastern area by declaring that we are justified in assuming the existence of headmen in the Australian tribes generally, though the extent of their authority may vary.

These headmen belong to the local groups within the tribe ; sometimes one among them may be slightly raised, owing to certain personal qualities or accidents, above the rest, and take the lead at their joint deliberations, but there is no further approach to any headman of the tribe as a whole.

In the south-eastern area we have information as follows :

Among the Dieri and kindred tribes each totem and each horde has its headman (Pinnaru) ; " the Pinnarus are collectively the Headmen of the tribe, and of them some one is superior to the others."[122]

[120] Curr has denied this (*cf.* " The Australian Race," vol. ii., pp. 204, 205). But in his own work we find examples of rudimentary forms of government (see vol. ii., pp. 246, 333). Smyth's statement (vol. i., p. 126) cannot be accepted that " the government of Aboriginal tribes is not a democracy," but that at various times various classes have supreme power—doctors, warriors, old men, etc. For it is the old men who have the power always.

Cf. also J. Mathew in *Journal of the Royal Society of New South Wales*, vol. xxiii., p. 398 ; Beveridge, p. 13.

[121] Transactions, etc., p. 112. See also his " The Native Tribes," etc., pp. 295, 296.

[122] Howitt, " The Native Tribes," etc., p. 297. In this group of tribes there seems to be an approach to a headman being recognized for the tribe as a whole. *Cf.* what is here said of the Dieri group of tribes with what is said below of the Arunta and other central tribes. *Cf.* also Gason, in Curr, ii., 49.

In the other tribes of the south-eastern area the headmen were purely local in origin, each local group having one or more headmen;[123] the headmen were assisted and advised by a council of elders. Dawson says[124] that in West Victoria each tribe had a chief, who consulted with the leading men of the tribe; his power was supreme; the succession was hereditary, but this was conditioned by the fitness of the successor. When a chief died the neighbouring chiefs nominated someone to act till the new chief was installed. If there was no heir, they chose a successor out of the dead man's tribe.

Among the Kurnai of Victoria authority attached mainly to age, conditioned by ability; it was not hereditary; women often had influence. There seem to have been two principal headmen, and there was a headman to each local division.[125]

Fraser states[126] of the New South Wales tribes,

[123] *Cf.* various observers in Howitt, "The Natives Tribes," etc., pp. 301-326 (South Australia, Victoria, New South Wales). Howitt notes a more marked authority in the headmen of the coast tribes in this area. *Cf.* also Taplin, p. 35 (Narinyeri); Stephens in *Journal of the Royal Society of New South Wales*, vol. xxiii., p. 495 (Adelaide).

[124] "Australian Aborigines," pp. 5, 6. Here it is hard to say whether a "tribe" or a "local group" is referred to.

[125] Howitt, "The Native Tribes," etc., p. 317; Fison and Howitt, "Kamilaroi and Kurnai," pp. 211, 212; Howitt in Transactions, etc., p. 105.

[126] "The Aborigines," etc., p. 38. See also *Journal of the Royal Society of New South Wales*, vol. xvii., p. 20; Taplin, pp. 28, 30 (Lower Murray); R. H. Mathews, in *Journal of the Royal Society of New South Wales*, vol. xxxii., p. 67; *Science of Man*, vol. i., p. 181 (New South Wales).

The existence of any form of government is denied, among others, by Woods, p. 226 (Port Lincoln Tribes); Curr, "Recollections," etc., pp. 244, 246, 257 (Bangerang); Myles, in Curr,

that each section is directed by an elders' council, one of whom takes the lead for his personal qualities.

Coming now to the central tribes north of Lake Eyre, we may take the Arunta as type. Each of the local totemic groups (see § 2 (*b*), above) has its headman or "alatunja." Within his own group this personage takes the lead, but outside it no headman has necessarily any special power; this he would only win through more than ordinary capacity, or through being the head of a numerically important group; old age, as such, does not bring distinction. There is no chief of the whole tribe. The alatunja's authority is vague, and he has no definite powers over the members of his group; he is simply one of the elders' council, and his authority depends on his personal qualities. Within certain limitations as to capacity the office is hereditary, descending in the male line.[127]

There is in these tribes a very definite custom-enforcing power.[128] These statements apply in general to all the central tribes.[129]

It is remarked by Spencer and Gillen[130] that, in spite of the power of custom, changes do take place in tribal organization. "At the present moment, for example, an important change

"The Australian Race," vol. ii., p. 38 (Thargominda); McDougall, in *Science of Man*, vol. iv., p. 63 (Cumbangri); Eyre, vol. ii., pp. 315, 317 (Lower Murray).

[127] Spencer and Gillen, "The Native Tribes," etc., pp. 10, 11.

[128] *Ibid.*, p. 15. For instance, we have the "ininja" or "atninga" to carry out the sentences of the headmen and elders (see Chapter VIII. below).

[129] Spencer and Gillen, "The Northern Tribes," etc., pp. 20, 24, 25.

[130] "The Native Tribes," etc., p. 12.

in tribal organization is gradually spreading through the [Arunta] tribe from north to south." Changes in custom are undoubtedly started by the older and more powerful men when large numbers of the tribe gather for ceremonies, and there are opportunities for discussion.[131] This seems to refer more particularly to the organization for tracing descent.

Spencer and Gillen remark[132] that there is nothing precisely equivalent in the other Australian tribes to the position of these headmen, " a fact which is to be associated with the strong development of the local groups in this part of the continent."

But there seems to be a strong local organization under headmen throughout Australia, the only difference being that in the central area the headmen are primarily totemic.

What is not made clear by these observers is whether the local unit for justice is the totemic local group, or the purely local group into which the totemic groups tend to aggregate themselves. The evidence seems to show that the unit for justice, and nearly all purposes except ceremonial, is a purely local group.[133] This would involve in many cases the existence of more than one headman in such a purely local group ; but the plurality of headmen occurs also in the south-eastern area.[134]

In the Boulia district of North-West Queensland old age gives the highest social standing ; there is no single chief of a tribe ; internal justice in tribal offences is administered by the elders, but in more

[131] *Cf.* " The Northern Tribes," etc., p. 26.
[132] " The Native Tribes," etc., p. 11.
[133] *Cf.* the references in notes 56, 60, 61, 63, above.
[134] *Cf.* the references in note 123 above.

serious offences (including those against marriage customs) the whole camp takes justice into its own hands.[135]

W. E. Roth states of the tribes of North Queensland in general that the central government is carried on by an informal elders' council in each camp ; in some parts women share in the deliberations. This council mainly deals with collective tribal concerns and external matters—peace and war, and proposed covenants.[136]

Lumholtz[137] says of the Herbert River tribes (North-East Queensland) that there are no chiefs, but on important occasions the old men's advice is sought. There is no restraint, he adds, on the individual.

Such scanty indications as we have from South-West Australia point to a very rudimentary form of government, certain men merely taking the lead through their personal qualities.[138]

The same seems to be true of Tasmania.[139]

It is to be concluded that there were the rudiments of government in the Australian tribes. The degree of development of this institution varied probably in different cases. Each local group of a certain extent had its headman or

[135] W. E. Roth, " Ethnological Studies," etc., pp. 139-141.

[136] " North Queensland Ethnography," bulletin 8, p. 5.

[137] p. 177.

[138] *Cf.* Browne in " Petermann's Mittheilungen," 1856, p. 446. *Cf.* also Grey's observations on the North-West tribes (vol. i., p. 252).

[139] See H. L. Roth, pp. 57, 58; Bonwick, " Daily Life, etc., of the Tasmanians," p. 81 ; *Science of Man*, vol. v., p. 124; Waitz. part vi., p. 814.

headmen and elders' assembly, and was autonomous, or nearly so. The tribal unity is very slight.

§ 5. ORGANIZATION FOR THE TRACING OF DESCENT.

Besides the local organization of a tribe, there exists another : the classification for the purpose of fixing descent.

The result of this is that the members of the tribe are subdivided into smaller groups, but not on the principle of local contiguity. The members of each of these groups stand in special relations to one another for many purposes of justice, and in special relations to the members of one or more other such groups as regards sexual intercourse.

This form of organization gives rise to a variety of complicated systems throughout Australia, with the exception of a few small areas. Here we shall only give the broadest general outlines.

Insomuch as the systems in various tribes come into question in intertribal marriages, we shall have to refer again to the subject below, in Chapter V.

The early observers in Australia saw only a seemingly lawless intercourse between the sexes, and the violent seizure of a woman by some man, generally from another tribe. It was only gradually that the discovery was made of the existence of a very complicated body of customs regulating marriage, whereby individual choice is greatly restricted.

Compliance with these customs is nearly always enforced by the penalty of death.[140]

The fundamental idea in each tribe is a division into two groups (phratries) exogamous to one another. There is generally one or more further subdivisions into exogamous groups.

In the tribes of which the Wakelbura of South Queensland may be taken as the type, and which cover a greater part of the south-eastern area, we have the two main groups, each divided into two sub-classes. To the main classes, again, are attached totem classes, and as a final result we get the totems or clans exogamous to one another, each clan or totem restricted for marriage to a certain other clan or totem. Thus, matters are so arranged that the exogamy of the primary classes, but not necessarily of the sub-classes, is maintained.[141] The child takes the mother's totem and class, but not her sub-class.

Associated with the marriage organization is a complicated system of kinship terms.

An opposite type of descent and marriage organization is presented by the Kurnai of Victoria. Here descent is through the father, and exogamy belongs to the local groups (Howitt's "divisions"). Each "division" intermarries with

[140] Howitt, in Transactions, etc. (1889), p. 113. In this writer's "The Native Tribes," etc., p. 90, is a map showing the descent organizations of the various tribes in the south-eastern area.

[141] *Cf.* Howitt, Transactions, etc. (1889), pp. 98-101, 134-137; also "The Native Tribes," etc., pp. 42, 43; R. H. Mathews in *Journal of the Royal Society of New South Wales*, vol. xxxii., pp. 67, 68.

certain others, either within or without the primary local division (Howitt's local "clan").[142]

Between these two extremes various degrees of difference are to be found in the south-eastern area.[143]

In relations within the local group there is solidarity in rights and responsibilities between the members of each lowest group (totem or sub-class),[144] which we shall call the "clan."

In the central and north-central area we have the two main exogamous classes.[145] The Urabunna and Dieri have but these two classes, to which are annexed exogamous totems, each one intermarrying with a certain other, the child taking the mother's class and totem.[146]

In the Arunta, Iliaura, and the other tribes northward to near Port Darwin, we have, from the division of the two main classes, eight exogamous sub-classes, each of which is restricted in marriage to one of the rest. Descent is through the father (but indirectly). In this set of tribes the totems have no connection with marriage nor with justice.[147]

[142] Howitt, "The Native Tribes," etc., p. 271, 272. The totems survive in the Kurnai, but do not regulate marriage.

[143] *Cf.* Howitt, Transactions, etc., p. 102; "The Native Tribes," etc., p. 43.

[144] *Cf.* Howitt, Transactions, etc., p. 136; and Chapter VIII. below.

[145] Spencer and Gillen, "The Native Tribes," etc., p. 55; "The Northern Tribes," etc., p. 70.

[146] "The Native Tribes," etc., pp. 59; "The Northern Tribes," etc., p. 73.

[147] "The Native Tribes," etc., pp. 59-91; "The Northern Tribes," etc., p. 74.

In the Mara and Anula, on the Carpentaria Gulf, there are

In North-West Queensland there are the two main exogamous phratries in each tribe, each of which is divided into two sub-classes, and each of these, again, has totems attached. The child takes the mother's phratry, but opposite sub-class.[148]

Our main purpose forbids our giving more than this very general sketch of certain typical forms of these organizations for fixing descent.

§ 6. GENERAL CONCLUSION.

From the considerations in this chapter it will be seen that the most important unit is not the tribe, but the smaller local group, several of which groups make up the tribe. The unity of the tribe is hard to find, and it is only in a few cases, which we shall meet with below, that it would seem to come into play. The most stable mark, though not universal, of the tribal unity is that in general the intratribal local groups do not carry on unregulated warfare with one another, and even where there is such warfare, the dead, it would seem, are not eaten by the enemy.

There is no firm line to be drawn between "nations" made up of "tribes" and "tribes" made up of local groups.

It must be remarked, finally, that our knowledge of the extent of the process of the local sub-

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likewise eight such exogamous sub-classes, but this is disguised; descent is through the father directly ("The Northern Tribes," etc., pp. 74, 75). Mrs. Bates states that in South-West Australia likewise the totems do not regulate marriage.

[148] W. E. Roth, "Ethnological Studies," etc., p. 56.

division of the tribe is wanting in exactness. It seems evident, however, that at a certain stage we find over each local subdivision one or more headmen, or at least an elders' council. And this local group presents itself as the proper unit group for our purposes.

Furthermore, it will be found that the relations between such local groups within the same tribe are in general in no way different from those between local groups belonging to different tribes.

III

CONFEDERATIONS OF TRIBES—GROUPS OF TRIBES—FORMATION AND DESTRUCTION OF TRIBES

§ 1. CONFEDERATIONS AND OTHER GROUPS OF TRIBES.

As between the tribes there are various degrees of differences in culture: over most of the Australian area groups may be arranged, made up in each case of tribes closely alike in general culture and structure. The tribes in each such group will be akin in all or most of the following respects: the use of a common word for "man," which gives the name to the group or "nation";[1] identity of descent organization; close similarity of dialects (but this is not necessary), of initiation ceremonies, and of customs and beliefs generally.[2]

To such aggregations the term "nation" has been applied by many Australian anthropologists, but the name suggests too closely knit an organization to be appropriate in this case.

[1] As example, we have the word *kulin*="man," used by most of the tribes of Eastern Victoria, excepting Gippsland; they form the so-called Kulin nation of sixteen tribes.

[2] Howitt, "The Native Tribes," etc., pp. 41, 44; Mathews, *Journal of the Royal Society of New South Wales*, vol. xxxii., p. 66; Spencer and Gillen, "The Northern Tribes," etc., pp. 1, 2, 14, 15, 75, 76.

Curr refers to these aggregates under the term "association of tribes." The tribes and their territories within an association, he says, are distinct, and battles occur between them, but not those of unregulated warfare,[3] and there is constant intercourse between them.[4]

Curr says: ". . . Every tribe entertains constant relations, for the most part amicable, with one . . . or more tribes. . . . Great differences in language and manners usually prevent tribes from associating in this way." The radius of the area of an Association he puts at about 20 to 100 miles, the number of tribes in it varying with the physiographical conditions. The differences of speech are small, and the equivalents for "no," "wild black," "man," are usually the same.[5]

Brough Smyth, referring more particularly to Victoria, says[6] that large tracts with well-marked natural boundaries are peopled by "nations," each composed of many separate tribes, differing among themselves but little in speech and laws and in modes of warfare. The speeches of the component tribes are very much alike, and the messengers find it easy to get to know them all.[7]

These statements go to show how little difference may be discoverable between the relations of "nation" to tribe on the one hand, and tribe to local group on the other.

We may conclude that such groups of kindred

[3] See Chapters VIII. and IX. below.

[4] "The Australian Race," vol. i., pp. 62, 63. His assertion that they do not use witchcraft against one another can hardly be accepted.

[5] *Cf.* also Curr, "Recollections," etc., pp. 246, 247.

[6] "The Aborigines," etc., vol. i., Introduction, p. lxii.

[7] *Cf.* also Mathew in *Journal of the Royal Society of New South Wales*, vol. xxiii., p. 398.

tribes exist throughout Australia. The closeness of the bonds between the component tribes probably varies, but it comes out especially in two closely connected ways: firstly, the tribes take part in one another's initiation ceremonies; secondly, there is normal and regular intermarriage between their members.[8]

The members of a so-called nation very often contradistinguish those outside it by some such term as "wild blacks."[9] It would seem, however, that in general the constituent tribes do not, beyond these relations, enter into closer alliance.

W. E. Roth says[10] that in North Queensland covenants for the extermination of a common enemy may be made by two tribes, on the basis of settling existing differences between themselves, without recourse to mutual bloodshed; but such covenants are not very binding, and are liable quickly to be broken. Roth's statement does not specifically refer to the tribes in "nations."

Curr's remark[11] that "the tribes of an association are in the habit of uniting for the purpose of making war on other associations" seems against all the evidence, for there are no examples of regularly organized warfare in Australia.[12]

Curr notes[13] that the Bangerang and kindred tribes were allowed to take refuge on one another's territory. This seems to point to special relations.[14]

[8] *Cf.* Howitt, "The Native Tribes," etc., pp. 44, 511, 512; Curr, vol. i., pp. 63, 67, 106.

[9] *Cf.* Dawson, pp. 76, 77; Curr, "Recollections," etc., pp. 246, 247; *Science of Man*, vol. vi., p. 122; Howitt, "The Native Tribes," etc., p. 60.

[10] "North Queensland Ethnography," bulletin 8, p. 5.

[11] "The Australian Race," vol. i., p. 67.

[12] See below, Chapters VIII. and IX.

[13] "Recollections," etc., p. 247.

[14] See further, on the subject of "nations," Howitt, "The Native Tribes," p. 252; Mathew in *Journal of the Royal Society of New South Wales*, vol. xxiii., p. 398.

References to so-called nations in various parts of Australia are given in the annexed note.[15]

§ 2. FORMATION AND DESTRUCTION OF TRIBES.

We have a few indications of how a new tribe may originate.

The Biduelli in Eastern Victoria, occupying a barren tract, were a mixture of three adjacent tribes.[16] They spoke a mixed dialect, and it would seem that their country formed a refuge for those who for various reasons had fled from other tribes.[17] This tribe was thus built up of refugees from tribal justice or private vengeance, and organized itself as far as possible on the usual lines.[18]

[15] *Southern Australia.*—Howitt, "The Native Tribes," etc., pp. 49, 68 ; *Science of Man*, vol. vi., pp. 121, 122.

Victoria.—Howitt, *ibid.*, pp. 78, 79. 252, 253, 513 ; Howitt, in Transactions of the Royal Society of Victoria (1889), vol. i., part 2, p. 109 ; Curr, "Recollections," etc., pp. 246, 247.

New South Wales.—Howitt, "The Native Tribes," etc., p. 513. Collins found (vol. i., p. 546) the Port Jackson tribes under the lordship to a certain extent of the Camerai, and declares that to this tribe the others had to pay the tribute of a tooth from each man. But it is likely that he is confounding an initiation ceremony.

South Queensland.—Howitt, "The Native Tribes," etc., pp. 58, 60, 63, 512.

Central Australia.—Spencer and Gillen ("The Northern Tribes," etc., pp. 2, 14, 15, 75, 76) apply the term "nation" to each of five groups of tribes in this area. But theirs is simply a convenient classification, and does not seem to involve any special relations.

[16] Howitt, "The Native Tribes," etc., pp. 79, 80.

[17] *Ibid.*, p. 80. Howitt calls it an Australian cave of Adullam.

[18] *Ibid.*, p. 81. Howitt adds : "It is a good example of . . . the formation of a non-genealogical tribe."

Curr ("Recollections," etc., p. 232), speaking of two tribes in Northern Victoria, believes that they had comparatively lately seceded from the Bangerang, whose language they spoke with very slight differences. "Indeed, the Bangerang occasionally spoke of their neighbours in a hesitating sort of way as Bangerang Blacks."

There are indications, on the other hand, that tribes died out sometimes owing to epidemics, even before contact with Europeans.[19]

An interesting case of how a new tribe might originate is mentioned[20] from New South Wales. A Marawaii tribesman disappeared many years ago from his tribe with another man's wife. He was found again in 1892, having taken refuge in a very barren tract of country. With him were thirty descendants, speaking a corrupt dialect.[21]

The Arkaba-tura of South Australia say they sprang from a number of outcasts from other tribes, and there are said to be other cases of the same origin in this area.[22]

[19] *Cf.* Collins, vol. i., p. 598; Howitt, "The Native Tribes," etc., p. 63.

[20] Richards, in *Science of Man*, vol. vi., p. 123.

[21] Richards remarks that in a few generations he might have become a powerful tribe. A very similar case is reported from Queensland, where an offender against tribal law had isolated himself with his family; they had evolved a new dialect (Mackie, in *Science of Man*, vol. iii., p. 153).

[22] Green, in Curr, "The Australian Race," vol. ii., p. 124.

IV

TERRITORIAL SOVEREIGNTY

In Australia, the territorial rights of each tribe as against another are very distinct ; but the assertion of the tribal sovereignty always takes place in the form of the assertion of its own sovereignty by each intratribal local group ; the tribe does not act as a whole.

In Chapter II. above we assumed the tribal sovereignty, and we saw that this territory is subdivided among smaller local groups, whose rights of possession, however, seem, in some cases at least, to be subject to certain tribal overrights.

Each tribe occupies a defined tract of country, and the members have the exclusive right to all the game and products found within this area, with such restrictions as are involved by the rights of intratribal groups or of individuals which we discussed above (Chapter II., § 3).

Howitt states[1] that each tribe "as a whole occupies a certain defined tract of country, which forms its hunting and food grounds, and which it claims exclusively, not admitting the right of any other tribe or any other individuals to use it

[1] Transactions of the Royal Society of Victoria (1889), vol. i., part 2, p. 101.

unless they happened to be within its boundaries as . . . visitors. . . . The boundaries of this tribal country coincide with the boundaries of the social organisation of the classes of the . . . community, although the names of the classes, sub-classes, and totems extend beyond the tribal boundaries, and include in a wider social bond other adjoining tribes."[2]

Curr says[3]: ". . . The whole of Australia has been parcelled out among the tribes, probably many centuries back; and . . . prior to the coming of the Whites each tribe held its territory, when necessary, *vi et armis*, against all intruders."

Brough Smyth says:[4] "The tract of land owned by each tribe was well known to every member; as well known and as accurately defined as if the metes and bounds of it had been set out by a surveyor."[5]

The area of a tribal domain varies very much, and according to the physiographical conditions. In barren land it will be of a great extent; in favoured parts, such as the extreme south-eastern area, it will be small. This latter is probably especially the case where there are fishing-rights.[6]

[2] Of course, it has not always been easy to find out the exact boundaries of every tribe (see Howitt, "The Native Tribes," etc., Preface, p. xii).

[3] "The Australian Race," vol. i., p. 69. *Cf.* also Smyth, "The Aborigines," etc., vol. i., p. 123.

[4] "The Aborigines," etc., vol. i., p. 139. All of Smyth's statements refer more particularly to Victoria.

[5] See also R. H. Mathews, *Journal of the Royal Society of New South Wales*, vol. xxxii., p. 66; and Waitz, vi., p. 750, quoting Freycinet.

[6] *Cf.* Mathews, *loc. cit.*

In intertribal warfare the aim never was increase of territory. No cases have been observed of any territorial conquest, though, of course, the actual arrangement of tribal lands must have come into being at various times.

Fraser remarks :[7] " It is not supposed that the Australian tribes have in all time continued to occupy the very same ' taurai ' which they now have. There is a flux and reflux among savage tribes—a growth and decay."

There are vague traditions among some tribes of their forefathers having driven out another tribe and taken possession of the territory, thus pointing to movements of tribes. This is the case with the Dieri,[8] and with the Pegullobura of North Queensland.[9] We have an example of territorial redistribution in the European epoch, in the case of the Auanbura of Central Queensland, who took the country of the Bithelbura, their neighbours, when these died out.[10]

Of the Central Australian tribes, Spencer and Gillen say :[11] " From time immemorial—that is, as far back as ever native traditions go—the boundaries of the tribes have been where they are now fixed. . . . There has never apparently been the least attempt made by one tribe to encroach upon the territory of another. Now and again they may have intertribal quarrels and fights, but there is no such thing as the acquisition of fresh territory. No idea of this or of its advisability or otherwise ever enters the head of the Central Australian native. Very probably this is to be associated with the fundamental belief that his *alcheringa* ancestors occupied precisely the same country which he does now. The spirit parts of these ancestors are still there, and he has a vague kind of idea not only that the country is indubitably his by right of inheritance, but that it would be of no use to anyone else, nor would any other people's country be good for him. The spirit individuals would not permanently leave their old home, and where they are there must he stay."[12]

[7] " The Aborigines," etc., p. 38.
[8] Howitt, " The Native Tribes," etc., p. 45.
[9] Chatfield, in Curr, " The Australian Race," vol. ii., p. 477.
[10] Howitt, " The Native Tribes," etc., p. 63.
[11] " The Northern Tribes," etc., pp. 13, 14.
[12] See also the same writers' " The Native Tribes," etc., p. 123.

Fraser says[13] of New South Wales: "It is well known here that each tribe had its own 'taurai'—territory or hunting-ground—usually determined by natural boundaries, such as mountain-ridges and rivers; any transgression of these limits was regarded by the adjacent tribe as a *casus belli*, and would at once lead to hostilities."[14] "It[15] is only a war-party or a band of blood avengers that will cross the boundary and enter on the land of another tribe."

The close connection between the members of a tribe and its territory is shown again by the following circumstance from North-West Queensland: "When about to swim across any big stream or river that he suspects or fears, the aboriginal will speak to this Being [that is, the Kanmare, a supernatural water-snake] . . . somewhat as follows: 'Do not touch me. I belong to this country.' But were he to cross even his own country's river with a stranger to the district, it is possible that he might be engulfed."[16]

Curr says[17] of the Bangerang and Nguraialum (Victoria) that the boundaries between them were indefinite. Not being good friends, each kept well within its own limits, so that there was a neutral strip four miles wide between them, over which both hunted sometimes, but did not camp there at night.

The Wurunjeri (Victoria) and neighbouring tribes claimed the rivers flowing through their country to their sources, where their summer hunting-grounds lay.[18]

Howitt notes that in the Karamundi "nation" there was a certain overlapping and confusion of tribal boundaries.[19]

Among the Kaiabara (South Queensland), the elders instructed the children in the marriage laws, about the boundaries of their country, and what they might eat.[20]

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[13] "The Aborigines," etc., p. 36.

[14] But not war in its ordinary meaning, only a judicial fight (see Chapter VIII. below).

[15] "The Aborigines," etc., p. 37.

[16] W. E. Roth, "Ethnological Studies," etc., p. 160.

[17] "Recollections," etc., p. 232.

[18] Howitt, "The Native Tribes," etc., p. 72.

[19] "The Native Tribes," etc., p. 50. *Cf.* also Cameron, in *Science of Man*, December, 1899 (Western New South Wales). For further references to New South Wales, see Eyre, "Journals," etc., vol. ii., p. 297 (Lower Murray); *Science of Man*, vol. i., p. 152 (Wonnarua tribe).

[20] Brooke, in Howitt, "The Native Tribes," etc., p. 230. For further references to Queensland see *Science of Man*, N.S., vol. iii.,

There are observations from various other parts of Australia on the existence of a tribal territory,[21] and the same is true of Tasmania.[22]

The evidence shows, therefore, that there was a very definite connection between the tribe and a defined territory. Absolute rights were acknowledged and maintained over this territory and all its products.

Along with this general territorial sovereignty there would seem to have been certain customs of intertribal comity, the result of which was to admit others to a share in the benefits of this

p. 116 (Clarence River), vol. iv., p. 9 (Murwilumba tribe), vol. iii., pp. 82, 83 (South Queensland); Curr, "The Australian Race," vol. ii., p. 205 (Barkunji and neighbours), vol. ii., pp. 334, 335 (Cloncurry River), vol. ii., p. 470 (Natal Downs). A confusion of boundaries is also noted by Howitt in the case of the Gurnditch-mara (p. 249) and of the Chepara and Turbal (p. 86). Lumholtz, "Among Cannibals," p. 176, estimates that the extent of the territory of the tribe which he knew at Herbert Vale was about 40 by 30 miles.

[21] See Angas, "Savage Life," etc., vol. i., p. 88 (South Australia); Browne in "Petermann's Mittheilungen," 1856, p. 445 (Albany tribes). This observer says (p. 448) that the inland tribes came down to the coast in the summer to fish, returning in the winter. This seems to point to an intertribal territorial comity such as we shall note below in the case of South Queensland. See further Salvado, "Mémoires," etc., p. 156 (Swan River). Mrs. Bates, in her paper on West Australia, says that in the south-west when a tribe became extinct their hunting-ground was not annexed by other tribes; it was looked on as a no-man's-land, which could not be claimed by anyone, yet which might be hunted over when necessary.

[22] Bonwick, "Daily Life and Origin of the Tasmanians," p. 83, says: "Their hunting-grounds were well determined, and tres-passers were liable to attack." H. L. Roth says ("The Aborigines of Tasmania," p. 59): "The boundaries of various hunting-grounds belonging to each tribe were respected and . . . trespass was equal to a declaration of war." See also *ibid.*, p. 58; *Science of Man*, N.S., vol. v., p. 124.

ownership at certain times, and there seem even to have been traces of a joint holding of a certain territory by a group of tribes.

In South Queensland there is a district where the bunya-nuts are particularly plentiful. The Kabi tribe, who own this district, invite the members of other tribes to share in the harvest, which occurs every third year, but those invited are not allowed to help themselves to any game whatever.[23] The strangers did not climb the bunya-trees for the cones, for all the trees belonged to the people of the place.[24]

The holding of the bunya-feast was decided on by the elders' council, and two messengers were sent round to invite the friendly tribes.[25] The feasts lasted about a month.

The existence of certain raspberry-grounds, to which neighbouring tribes were freely admitted when the harvest was abundant, is also mentioned.[26] When a whale, too, was stranded, notice was given to the neighbours by columns of smoke, and they flocked in to share in it as of right.[27]

[23] Curr, "The Australian Race," vol. iii., p. 120. *Cf.* also his "Recollections," etc., p. 167; Smyth, "The Aborigines," etc., vol. i., Introduction, pp. xxxiii, xxxviii. Smyth gives the now discredited story that "at length the craving for flesh was so intense that they were impelled to kill one of their number. . . ."

[24] T. Petrie, in Howitt, "The Native Tribes," etc., p. 768. He adds: "A father gives certain trees to his sons, who can invite their friends to come and eat of the fruit."

[25] Petrie, *ibid.*, p. 323.

[26] B. Smyth, "The Aborigines," etc., vol. i., Introduction, p. xxxiii.

[27] *Ibid.*

Indications of a joint holding of territory are met with, according to Curr,[28] in the case of the Gregory River tribes (East Central Australia). On the banks of the Gregory there is said to exist a neutral ground 150 miles by 50 miles, which has been reserved by the consent of several tribes for the holding of their meetings. The large gatherings in which the natives delight are liable to be curtailed owing to the quantity of food which they cost to the tribe on whose territory they are held. This arrangement would meet this difficulty.

The "Field of Mars" at Parramatta is said to have been one of the neutral grounds for great meetings and coroboris of many tribes.[29] There is a certain locality on the Lower Murray which is said to have been considered neutral ground by the neighbouring tribes, who obtained from it green stone for tomahawks.[30]

A noteworthy instance of intertribal territorial comity comes to us from the area east of Lake Torrens.[31]

Red earth or ruddle is widely used throughout Australia as a token of mourning, the observance of which rite is a very strict duty. In this area the ruddle is found at only one place, and in the case in hand there is no bartering, but deputations

[28] "The Australian Race," vol. ii., p. 293. In general, "when a tribe entertains another, it does not, save in exceptional cases, supply food; but allows its guests to help themselves to what is obtainable on its lands" (*ibid.*, p. 294).

[29] Blackman, in *Science of Man*, N.S., vol. iv., p. 31.

[30] Krefft in Transactions of the Philosophical Society of New South Wales (1865), p. 366.

[31] W. Jessop, "Flindersland and Sturtland," vol. ii., pp. 211, 212. It may have been to these deposits that the Yantruwunta and Dieri sent their armed bands; the difference between the two cases is to be noted (*cf.* below, Chapter V., § 1). I am indebted to Hellwig for the reference to this case.

of not more than two or three are allowed to pass unmolested through any tribe if going for the ruddle, and so that they do not exceed the actual number of days needful for the journey, otherwise they would be killed. The tribe owning the ruddle-mines allows them to take away as much as they can carry. Such deputations have been known to come from as far as the Adelaide district.

V

INTERCOURSE IN GENERAL BETWEEN LOCAL GROUPS, AND CERTAIN SPECIAL FORMS OF INTERCOURSE

§ 1. INTERCOURSE IN GENERAL : COROBORI.

As in other cases, we find here that the real unit is the intratribal local group. Even when we speak of intercourse between tribes, the reference is only to the local subdivisions of the tribes. There is, moreover, no distinction to be found, whether the local groups belong to the same or to different tribes.

Curr has described certain differences in the general intercourse between the tribes. Between tribes belonging to the same nation there is (as we saw above) close and friendly intercourse, particularly through intermarriage, and the sharing in one another's ceremonies.

Tribes, again, may be neighbours without belonging to the same nation. In this case their meetings and intermarriages are less frequent, and their relations are an alternation between disagreement and fighting, followed by peacemaking. They practise witchcraft against one another,[1] but

[1] This is really no peculiar mark, as even members of the same tribe use witchcraft against one another.

the hatred which each feels against the other is held in check by the need of some semblance, at least, of peace between neighbours exposed to one another's night-attacks.[2]

Finally, there are the relations between tribes who are entirely strangers to one another, owing to the distance between them. Curr, like most writers, says[3] that strangers always look on each other as deadly enemies, and in the days before white settlement no Australian ever refrained from killing a stranger at the earliest possible occasion.

To a certain extent this distinction drawn by Curr between the intertribal relations may be accepted. Most observers bear witness to the general hostility between the Australian tribes, where this is not counteracted by the ties of neighbourhood.

Thus Smyth says:[4] "The Australian Aborigines in their wild state are not only suspicious of treachery in their neighbours, but often have a superstitious terror of distant tribes, with whose existence they are only acquainted by report." Again:[5] "The constant treachery practised prevents the different tribes from often leaving their own territory; if they do they are never sure of their lives." And for the same reason they do not like going about after dark, says Smyth, or leaving their camps unless in a party.[6]

Curr states:[7] "Should Blacks at any time come on a man with whom they are unacquainted, they invariably kill him, if possible. Strange children are killed in like manner. A Black hates intensely those of his race with whom he is unacquainted, always excepting the females. To one of these he will become attached, if he succeed in carrying one off

[2] "The Australian Race," vol. i., p. 63.
[3] *Ibid.*, vol. i., pp. 63, 64.
[4] "The Aborigines," etc., vol. ii., pp. 223.
[5] *Ibid.*, vol. ii., p. 290.
[6] But there is also probably here the fear of spirits.
[7] "The Australian Race," vol. i., p. 86.

otherwise, he will kill the women out of mere savageness and hatred of their husbands."[8]

Waitz, quoting Mitchell, says :[9] " Ein Fremder der überraschend kommt, hat einen Angriff zu erwarten, und wäre es nur aus Schreckhaftigkeit."

But at the same time there evidently exists a constant and normal social intercourse between those tribes, at any rate, which are not sundered by great distances, and so virtually unknown to one another. It must be remembered, too, that the great extent of Australia probably involves in this, as in other respects, variations of custom in different areas.[10]

Within the indicated limits, at least, tribes do not live in isolation. They are in the habit of meeting for the adjustment of differences, for arranging hunting-drives, and for other such purposes.[11] On these occasions there is feasting and corobori, but, we are told, the meeting will generally end in fighting, and, indeed, if there are any recent grounds, a fight ensues almost so soon as the tribes meet.[12]

Intercourse between the local groups has its strict customary forms and ceremonies to be observed.

As examples, we may cite the following, referring to the Victoria tribes, from Smyth.[13]

One tribe cannot approach the camp of another

[8] *Cf.* also Curr, " Recollections," etc., p. 430.

[9] " Anthropologie," etc., part vi., p. 750.

[10] Accredited messengers and envoys between local groups will be dealt with in Chapter VII.

[11] Smyth, vol. ii., p. 225 (all of Smyth's observations refer more directly to Victoria).

[12] *Ibid.*, vol. ii., p. 292.

[13] *Ibid.*, vol. i., p. 133.

without warning. Whatever the purpose, peace or war,[14] the tribe seeking a meeting must give formal notice of its coming. A messenger (*wear-garr*) who has been formally appointed, or two such on very special occasions, carrying a token which acts as a safe-conduct, announces the coming visit, or invites the tribe as visitors. The messenger, on approaching the camp of the other tribe [*i.e.*, local group], sits down at a considerable distance away, but usually within sight of it, and makes a small fire to show his presence. After a quarter of an hour one of the elders approaches, carrying a fire-stick. The messenger presents his token (which is marked according to the nature of the message), and the old man orders his conduct accordingly. If the messenger has announced visitors, they arrive some hours after, and if they are friendly a corobori takes place at night. If the purpose is war [*i.e.*, some form of regulated justice], the messenger deliberates with the elders of the tribe, often far into the night.

However unpleasant the tidings, the messenger's person is sacred, and he is listened to and hospitably treated. Where an answer has to be given, the bearer is conducted safely to the boundaries of the tribal district.

There is also a code of customs regulating the way in which assembled tribes shall pitch their camp.[15] Each tribe takes up its position accord-

[14] This latter, of course, would refer only to regulated forms of justice (see Chapter VIII.).

[15] Curr, "The Australian Race," vol. i., p. 98. *Cf.* also "Recollections," etc., p. 133. We must bear in mind the constant confusion in observers between the tribe and the smaller local group.

ing to the quarter whence it comes, and a space of about 30 yards is generally left between each one, for, says Curr, the apprehension of each other's intentions is not wholly absent.

The extent of intercourse between local groups or tribes probably varies mainly in accordance with the food-supply of an area. Where food is plentiful, along with a higher culture within the tribes, we find that they see more of one another —" in other words, entertain more, and are more given to fighting."[16]

Coming now to the central area, we find that among these tribes the various local intratribal groups and the members of contiguous tribes live generally in friendship. Disagreements now and then arise over woman-stealing, or the practice of magic, but sooner or later, after a regulated fight (to be described in Chapter VIII.), harmony is restored, and generally with no loss of life.

Once compensation has been made in proper form, no ill-feelings are cherished, as a general rule.

Nothing is further from the truth than the state of constant hostility described in the average account.

In almost every camp are to be found members of strange tribes on visit, or taking part in ceremonies.

Members of one tribe will declare that a distant tribe with which they have little or no contact is very fierce, and given to making raids, yet members of the same tribe will be on wholly friendly terms with its immediate neighbours, and some of the latter will be on exactly the same terms with the

[16] " The Australian Race," vol. i., p. 66.

tribe which was described as so fierce and bloodthirsty. But it is true that if a member of an unknown tribe made his appearance, unless he were accredited as a messenger, he would probably be at once speared ; anything strange is uncanny to the native, who has a peculiar dread of evil magic from a distance.[17]

Spencer and Gillen add :[18] " Of course, we are only referring to the tribes in the central and northern area of the continent with whom we came into contact."[19]

The Dieri are neighboured by four tribes, who understand their language ; with them the Dieri keep up an ostensibly friendly intercourse. The tribes in this group attend one another's festivals, and there is mutual bartering.[20]

Gason adds, " But in secret they entertain a most deadly enmity to each other," although they believe they come from a common stock, and intermarry. " A more treacherous race I do not believe exists ;" yet, says Gason, " they possess in an eminent degree the three great virtues of hospitality, reverence to old age, and love for their children and parents."

In the Dieri we have a case of a tribe forcing its intercourse on others. This tribe sends yearly a party of men to the " pitcheri "[21] country in North Queensland, about 250 miles away. The party passes through the country of several hostile

[17] Spencer and Gillen, " The Native Tribes," etc., p. 32 ; " The Northern Tribes," etc., pp. 31, 32. The evidence of these observers must be given especial weight.

[18] " The Northern Tribes," etc., p. 31, *note*.

[19] The writers observe (*ibid.*, p. 32) : " Our two ' boys,' who went with us right through the continent, were particularly careful to keep close to camp, unless well armed, when they got amongst absolutely strange tribes in the country out to the east of the telegraph line."

[20] Gason, in Curr, " The Australian Race," vol. ii., p. 45.

[21] A prized narcotic.

tribes, fighting its way if necessary.[22] Again, once a year the Dieri sent an expedition southward for red ochre ; this would consist of seventy or eighty picked men, painted and armed, and fighting its way if necessary. The distance gone might be 300 miles.[23] The Yantruwunta (West Queensland) likewise have yearly expeditions to fetch red ochre and sandstone over 300 miles away, fighting where necessary.[24]

Such parties as these had to fight their way because they infringed the territorial rights of the tribes passed through, and of the tribe owning the products, as also the bartering customs.

Of the Western Victoria tribes we are told[25] that great meetings are held in summer by agreement among the friendly tribes. Any two chiefs can command the attendance of the tribes by messengers at an appointed time and place. Discussions are then held before the assembled tribes between the chiefs, and disputes are settled. As many as twenty tribes would sometimes be present at the yearly great meetings of the associated tribes.[26] These meetings took place at midsummer at a marsh abounding in game ; there was hunting, feasting, and amusements.[27]

[22] Gason, in Howitt, "The Native Tribes," etc., p. 710. It would return full of travellers' tales. The "pitcheri" is bartered away to southern tribes.

[23] *Ibid.*, p. 712. The red ochre is partly bartered away to other tribes.

[24] *Ibid.*, p. 713.

[25] Dawson, "Australian Aborigines," p. 72.

[26] *Ibid.*, p. 2.

[27] *Ibid.*, p. 3. None of the coast tribes came for fear of treachery. Dawson calculates there must have been about 2,500 natives at these meetings.

Great hunts also were held at intervals by the associated tribes; messengers were sent round, and all had to join in. Feasting and corobori in the common camp ended the meeting.[28]

On the high ranges of the Australian Alps a great gathering of friendly tribes took place about midsummer to feast on a certain moth.[29]

Fraser says[30] of the New South Wales tribes that even when hostile they do not shut themselves away from one another. At the great "bora" (initiation) ceremonies men of the neighbouring tribes are invited, and universal brotherhood prevails.

At a certain season a kind of fair ("mindi") is held in some suitable place, and tribesmen attend from all quarters. There is a general bartering.

Eyre observes[31] of the Lower Murray tribes that at certain seasons when food is abundant they meet in each other's territory for festivity, war, barter, or initiation ceremonies.[32]

About Cardwell and the Tully River (east coast of Queensland) the tribes meet at short intervals nearly all the year round to hold "prun" or tournaments, and settle real or imagined quarrels.[33]

[28] Dawson, "Australian Aborigines," p. 79.

[29] Howitt. "The Native Tribes," etc., p. 693[n]. (Howitt seems to be quoting Richard Helms.) *Cf.* also *Science of Man*, N.S., vol. iv., p. 54. For Curr's remarks on the hostile feeling between certain Victoria tribes see "Recollections," etc., pp. 233, 234.

[30] "The Aborigines," etc., p. 37.

[31] "Journals," etc., vol. ii., pp. 218, 219.

[32] For observations on the suspicion between members of different tribes on the Lachlan River, see *Science of Man*, March, 1897, p. 81; at Port Lincoln, Woods, "The Native Tribes," etc., p. 249.

[33] We shall deal with this point fully in the chapter on Justice (Chapter VIII., § 3).

The fighting there goes on under strict rules till dark, then more friendly relations are resumed, and coroboris are performed. The prun both helps to settle old scores, and at the same time promotes social intercourse and amusement.[34]

Of the tribal gatherings in North-West Queensland a careful observer says[35] that ideas are interchanged, and superstitions and traditions handed from district to district ; new words and terms get a wide currency, as do coroboris.

The tribes of North-East Queensland are described by Lumholtz[36] as being peculiarly hostile to one another ; this may be connected with the strong cannibalism there prevailing.

He says that, " Though free from care, they [the natives] are never without a secret fear of being attacked by other tribes, for the tribes are each other's mortal foes . . . self-preservation is their only law." Again :[37] " Individuals belonging to the same tribe are usually on the best of terms, but the different tribes are each other's mortal enemies. . . . The stranger who dares trespass on the land of another tribe . . . is pursued like a wild beast and slain and eaten. . . . However . . . the small subdivisions of the tribes that live nearest the border are on amicable terms with their neighbours, and . . . accordingly, the borders between the tribes are frequently very indistinct."

Speaking of the Herbert Valley district, this writer declares:[38] " . . . We crossed a valley, where . . . many blacks had at one time lived of whom not a trace was now to be seen. They had gradually been killed and eaten by other tribes." He says :[39] " . . . The greatest incentive to taking life is their appetite for human flesh. The blacks never wage war to conquer new territory."

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[34] " North Queensland Ethnography," bulletin 4, pp. 15, 16.

[35] Roth, " Ethnological Studies," etc., p. 136.

[36] " Among Cannibals," p. 101. Caution is generally needed in accepting this writer's observations in Australia.

[37] *Ibid.*, p. 176. [38] *Ibid.*, p. 270. [39] *Ibid.*, p. 271.

In South-West Australia we have evidence[40] of much social intercourse between the tribes. In the Albany district each tribe was celebrated particularly for making certain arms and other objects, and these tribes met at certain times and places for bartering, and for pleasuring and great kangaroo hunts.

The meetings generally began amidst harmony, and ended in fighting : some unsettled quarrel or injury would be remembered, and after words and blows they would separate, swearing revenge. But such fighting seldom involved deaths, as the combatants allowed themselves to be easily restrained by their friends ; there was more noise than anything else.[41]

Grey observes[42] that the natives of the Swan River district met together where the mimosa-gum was abundant, so that there was a sure food-supply, and that " a native proprietor of an estate," if he found a whale cast ashore on his property, invited the other natives, and they feasted for days.[43] Grey says[44] that at these yearly meetings where the acacia-gum was abundant, the tribes did their bartering, and there was general festivity and merry-making.[45]

We have no details as to the normal intercourse between Tasmanian tribes, but the fact that there were certain formal modes of greeting strangers[46] indicates that the intertribal relations were not those of indiscriminate hostility.

[40] Browne in " Petermann's Mittheilungen," 1856, p. 446.

[41] *Ibid.*, p. 447.

[42] " Journals," etc., vol. ii., pp. 260, 294.

[43] *Ibid.*, vol. ii., pp. 277, 278.

[44] *Ibid.*, vol. ii., p. 294.

[45] For remarks on the hostile feeling in Western Australia between members of tribes separated by any distance, see Salvado, " Mémoires," etc., pp. 130, 156 (Swan River). See also Grey, vol. i., pp. 363, 364 (same district).

[46] H. Ling Roth, " Aborigines," etc., pp. 60, 61.

A most important part in intertribal comity is played by the corobori.

The character of the corobori is much the same all over the continent, but there are local peculiarities ; it is a choral dance in various movements, in which the women seldom have a part beyond singing and marking time, and very often has a pantomimetic character. At the gatherings of the tribes the men of each tribe in turn will dance it, while the others look on, and this may go on for several days and nights. It is also danced as a token of reconciliation.[47]

Curr remarks[48] on the corobori in general that it has played an important part in the past of the Australian race, for it tended strongly to keep up communication between the tribes. It marks the renewal of friendly relations, and is itself a pledge of peace. The dancing of a corobori puts an end to all feuds, and definitely wipes out any revengeful feeling, though it must be added that it may lead to fresh ill-feeling and feuds, owing to attempts on the women.

In North-West Queensland, W. E. Roth says[49] coroboris are taught and conveyed from one tribe to another ; they travel in various directions, and

[47] Descriptions of the corobori will be found in many of the writers on Australia. We may instance, as describing two widely sundered areas, Curr, "Recollections," etc., pp. 134-144 (Victoria), and Lumholtz, "Among Cannibals," pp. 236-241. W. E. Roth has a very full description of coroboris in "Ethnological Studies," etc., pp. 118-125.

[48] "The Australian Race," vol. i., p. 92. He says: "Peace is, as far as I know, ratified in no other way." *Cf.* also Smyth, "The Aborigines," etc., vol. i., p. 162 ; Lumholtz, "Among Cannibals," p. 240.

[49] "Ethnological Studies," p. 117.

along the trade-routes and markets. Sometimes picked men are sent to a distant tribe just for the sake of learning one. New coroboris which meet with approval are eagerly learnt and circulated through the tribes.[50] It is the principal and characteristic art form of the Australian race.[51]

We shall now come to two special forms of inter-tribal intercourse—Marriage (including initiation ceremonies) and Barter.

§ 2. INTERMARRIAGE : INITIATION GATHERINGS.

The tribes are brought into constant relations with one another through intermarriage, and through the joint performance of the initiation ceremonies, which are closely connected with their marriage organization.

(*a*) *Initiation Gatherings.*

To the initiation ceremonies tribesmen come from a wide radius of country under what may be called a ceremonial armistice. In the tribes thus assembling there are sections which are in contact with still more distant tribes, with whom they intermarry ; this leads to a steady circulation of ideas connected with the ceremonials, and tends, on the one hand, to bring about a uniformity, and, on the other, to propagate modifications.[52] What Fraser

[50] *Cf.* also *Journal of the Royal Society of New South Wales*, vol. xxiii., p. 41 (Boyne River, Queensland).

[51] The corobori was cultivated by the Tasmanians likewise, and probably played as important a part. *Cf.* Bonwick, "Daily Life," etc., p. 38 ; H. L. Roth, "The Aborigines," etc., pp. 138, 139.

[52] Howitt, "The Native Tribes," etc., p. 641.

says[53] of New South Wales is typical : when the elders of the tribule are aware that there are boys of an age to be initiated, they send the public messenger, or herald, to inform the other sections of the tribe that a "bora" (meeting for initiation) will be held at a certain time and place ; he is also sent to invite the neighbouring tribes to attend, and the invitation is readily accepted.

Information as to the existence of such inter-tribal gatherings reaches us from most parts of Australia. At them each tribe generally took part in the initiation of all the youths, not merely of its own.

The Dieri (Lake Eyre) formed one of a group of five tribes who attended one another's ceremonies.[54]

Meetings called "mindari" are held about every two years, if the tribes are on friendly terms, and there are enough young men uninitiated. A time and place being appointed, women are sent round to the neighbouring tribes to invite them to the ceremony. Parties of the visitors then arrive daily, and are welcomed with the "mindari" song as a token of hospitality and friendship ; and at every sunrise and at intervals during the day the song is sung by all the camp. When it is full-moon, the youths are elaborately dressed out, and dancing by all goes on throughout the night. The "mindari" ceremony is held to enable the tribes to renew their peaceful relations by making presents and amicably settling such disputes as have arisen since the last "mindari."[55]

Eyre[56] describes the meeting between two of the Lower Murray tribes to perform initiatory ceremonies on their youths ; each tribe was also accompanied by many of its friends. The Chepara (Victoria) and neighbouring tribes

[53] "The Aborigines," etc., p. 11. He adds : "For, although the tribes may be at variance with each other, universal brotherhood prevails among the blacks at such a time as that."

[54] Gason, in Curr, "The Australian Race," vol. ii., p. 45.

[55] Gason, *ibid.*, pp. 59-61.

[56] "Journals," etc., vol. ii., pp. 219-222.

joined in holding "bora."[57] The Wotjobaluk (Victoria) and others met for ceremonial and festive purposes. These tribes intermarried. At the gatherings the men assembled at a place called "Jun" to talk over tribal matters.[58] In New South Wales the assemblies of the Barkunji tribes are described. The youths of each tribe are operated on by men of another tribe, who are potential brothers-in-law.[59] There were assemblies of the Murrumbidgee tribes.[60] Here the affair begins by a headman of one of the tribes sending a messenger to a neighbouring tribe in which the headman has kinsmen or friends. If this tribe accepts the invitation, it sends out a messenger in the same way to a third, and so on, till all gather.[61] There are also accounts from other parts of New South Wales.[62]

In Queensland the Wakelbura and other tribes assembled for ceremonies.[63] But only in the case of certain neighbouring tribes, considered more or less nearly related, did the whole tribe come to the Wakelbura territory, and *vice versa;* the more distant tribes were represented by a few members only, who accompanied one of the former.[64]

(*b*) *Intermarriage.*

Tribes are brought into constant and normal relation through the intermarriage of their members.

The local groups within any one tribe all have

[57] Howitt, "The Native Tribes," etc., p. 280.

[58] *Ibid.*, p. 241.

[59] R. H. Mathews in *Journal of the Royal Society of New South Wales*, vol. xxxii., pp. 241-255. For other instances from New South Wales, see R. H. Mathews in *ibid.*, vol. xxxiv., pp. 276-281; vol. xxviii., pp. 98-129; vol. xxx., pp. 211-213.

[60] Mathews, *ibid.*, vol. xxxi., pp. 111-153.

[61] *Ibid.*, pp. 118-120.

[62] See Enright in *Journal of the Royal Society of New South Wales*, vol. xxxiii., pp. 115-124; Angas, "Savage Life," vol. ii., p. 222; *Science of Man*, August, 1898, p. 153.

[63] Muirhead in Howitt, "The Native Tribes," etc., p. 225.

[64] *Ibid.*, p. 63. For other examples from Queensland, see T. Petrie, in Howitt, p. 237; *Journal of the Royal Society of New South Wales*, vol. xxiii., pp. 37-38; *Science of Man*, January, 1899, p. 263.

the same system for tracing descent; but between two tribes there may be differences, in which case a scheme whereby the two systems may be brought into consistency will be devised for particular marriages, as described below.

The ultimate social unit in Australia for our present purposes has been found to be an intra-tribal local group.

The same principles, therefore, will hold for inter-marriage either between members of different local groups within the same tribe, or between members of different local groups belonging to different tribes; both these cases are to be distinguished from marriages between members of the same local group. But where the local groups do not belong to the same tribe, the organization for tracing descent ("marriage organization") may be, as above indicated, different in each group.[65]

There was probably no wholly exogamous or endogamous tribe in Australia, in spite of certain statements, such as Curr's,[66] "Those [tribes] which are endogamous are, as a rule, stronger in numbers than those in which exogamous marriage obtains"; and Smyth's,[67] "Exogamy, it is perhaps true to say, is universal"; and a few statements as to the existence of exogamous tribes to be found below. It must be remembered, too, that in these writers the "tribe" and the "local group" are generally hopelessly confused.

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[65] Our references in the following account will generally refer only to cases of intermarriage between local groups belonging to different tribes.

[66] "The Australian Race," vol. i., p. 66. See also *ibid.*, vol. ii., pp. 119, 159.

[67] "The Aborigines," etc., vol. i., Introduction, p. xxiv. *Cf.* also *ibid.*, vol. i., p. 86. Curr and Smyth are practically useless for Australian marriage customs.

It would seem, therefore, that such a thing as a purely endogamous or exogamous tribe or local group did not exist.

In Australia a wife was obtained in one of the following ways: Exchange of kinswomen, betrothal without exchange, levirate, elopement, and abduction or capture.[68]

But whatever the method of acquiring, it was always under the restrictions laid down by the descent (marriage) organizations of the local groups concerned; these in general would be the same, and if not they would be compared, and brought into consistency with one another.[69]

The woman appears as a form of property, with a value in exchange, belonging first to a kinsman, then to a certain "clan" (totem or subclass), and finally to a local group. The stealing of a woman by a non-member of the local group, or an elopement with a non-member, is a wrong done firstly to the kinsmen, then to her "clan," and finally to her local group. With this last aspect we shall deal in the chapter on Justice.

In describing the organization of the tribe, we found that all the members were divided into several exogamous classes ("clans"), marriage taking place between the classes according to a fixed arrangement. When we pass from intra-

[68] *Cf.* Howitt, in Transactions of the Royal Society of Victoria (1889), vol. i., part 2, p. 115; Smyth, vol. i., Introduction, p. xxiv; J. Mathew in *Journal of the Royal Society of New South Wales*, vol. xxiii., p. 408.

[69] Of course, they would always be identical if the local groups belonged to the same tribe.

tribal to intertribal marriages, we find that the latter take place also under the same restrictions. A given system of classes may belong, perhaps with some variations in the names, to a wide group of tribes, controlling their intermarriages. In such a case no difficulties will arise. These similarities of organization will often exist between tribes separated by hundreds of miles, and perhaps by intervening tribes with other systems.

W. E. Roth remarks:[70] "It must be remembered that every individual aboriginal is related or connected . . . not only with all other members of his own tribe, but also with those of other friendlies perhaps hundreds of miles distant, the majority of whom he has neither seen, dreamt, nor heard of."[71]

Fison[72] gives instances which go to show that the marriage classes are recognized over the Australian area, so that a man may find a class with which he may have marital relations anywhere over the continent.[73]

Spencer and Gillen[74] state that strangers visiting a distant local group are generally offered "lubras" (women), but always of the class equivalent to that in which the man would find his wife within

[70] "Ethnological Studies," p. 56.

[71] Hedley and Roth (*Science of Man*, N.S., vol. vi., pp. 89, 90), on visiting the Wellesley Islands (Gulf of Carpentaria), found the same marriage classes holding there as on the mainland, though there seemed to be no communication. *Cf.* also *Journal of the Royal Society of New South Wales*, vol. xxiii., p. 36.

[72] "Kamilaroi and Kurnai," pp. 52-55. *Cf.* also *ibid.*, p. 166.

[73] This is supported also by Eyre's statement, at first disbelieved, concerning the hospitality shown in this respect to travelling natives.

[74] "The Northern Tribes," etc., p. 140.

his own tribe. This takes place, not only in the case of tribes near one another, but also in that of distant tribes, often hundreds of miles away. The absolute distinction which is drawn within the tribe between lawful and unlawful marriage intercourse is applied likewise to intertribal marriage intercourse.

The marriage intercourse between tribes which have differing descent organizations is still regulated by fixed rules. Here there is clear evidence that the divergent systems are compared with one another, and a joint harmonized system contrived to meet the case in hand.

Howitt says[75] that there is clear evidence that the Urabunna and Dieri have intentionally altered the class regulations to meet difficulties arising out of descent in the one tribe being through the mother, in the other through the father, and the consequent restrictions for the barring of what are deemed incestuous marriages, when it was necessary to do so to provide a wife for a tribesman.

In all the central tribes, from the Arunta northwards, there are deliberate modifications made to bring the divergent systems of the various tribes into a harmony with one another, so that intertribal marriages may be brought into a system which insures the classification of each tribe being maintained.[76] This harmonizing of differing systems also occurs in the New South Wales tribes.[77]

The community of Australian tribes, we see, therefore, is an intermarrying community. In almost every case the children belong to the father's tribe.

[75] "The Native Tribes," etc., pp. 190, 191.

[76] Spencer and Gillen, "The Northern Tribes," pp. 30, 95, 123. *Cf.* also their "Native Tribes," pp. 68, 69, 556.

[77] See Cameron, in Howitt, "The Native Tribes," etc., p. 215 (Wongi and Wiradjuri).

Early observers were led to lay a disproportionate importance on marriage by actual capture or forcible abduction from other tribes.[78] Captures of women do, of course, take place during certain hostile encounters[79] between local groups, and cases occur of raids for this purpose by individuals or parties.[80]

But such forcible capture is only one of the ways of acquiring a wife, its importance varying in different areas. Very often the form survives where in reality the marriage is arranged in other ways, and this it is probably that has led to the disproportionate stress being laid on this particular method by many observers.

Spencer and Gillen's statement on this point is to be noted. They say :[81] " Marriage by capture is . . . at the present day, whatever it may have been in the past, by no means the rule in Australian tribes, and too much stress has been laid upon this method. It is only comparatively rarely that a native goes and seizes upon some 'lubra' in a neighbouring tribe ; by far the most common method of getting a wife is by means of an arrangement made between brothers or fathers of the respective men and women, whereby a particular woman is assigned to a particular man. Marriage by capture may indeed be regarded as one of the most exceptional methods of obtaining a wife

[78] *Cf.* such statements as that in Grey's " Journals," etc., vol. ii., pp. 251, 252.

[79] See Chapters VIII. and IX. below.

[80] *Cf.* Fraser, " The Aborigines," etc., p. 28 ; J. Mathew in *Journal of the Royal Society of New South Wales*, vol. xxiii., p. 407.

[81] " The Native Tribes," etc., p. 104.

amongst the natives at the present day." And these writers add that, at any rate so far as the central tribes are concerned, there are no traces even that marriage was originally by capture.

Again, Howitt, after describing the customs of the Kamilaroi "nation," says:[82] "This account shows to us the custom from which the often accepted account of Australian marriages has been derived by writers, who have not known the actual facts of forcible abduction of wives in the Kamilaroi tribes. English writers have followed these statements and have assumed that it was the universal custom to obtain a wife in Australia by lying in wait for some woman, no matter which, knocking her down with a club, and carrying her off."

In the central tribes, at any rate, where marriage by abduction takes place from another tribe, a man only asks the help of those who are in certain definite relations to him in the marriage organization. Marriage customs regulate the whole proceedings. The corresponding classes in the tribes are well known.[83]

Brough Smyth's statement[84] of what takes place in Victoria shows, too, that what looks to be marriage by abduction really takes place under duly recognized forms. Here, if a man has not got a kinswoman that he can exchange for a woman of another tribe,[85] he will generally steal such a one

[82] "The Native Tribes," etc., p. 207.

[83] Spencer and Gillen, "The Native Tribes," etc., p. 104. These writers remark of the statement in B. Smyth's "The Aborigines," etc., vol. ii., p. 316—which says that those helping the captor have rights over the women—that it is vague and wants evidence. Moreover, we are not told how far the men helping are of the same class with the capturer. In the central tribes, at any rate, they say, intercourse would only be allowed under class restrictions; and this is probably the case all over Australia.

[84] "The Aborigines," etc., vol. i., p. 79.

[85] Probably only local group is meant by this expression.

if he cannot induce her to elope with him. In either case, as soon as the girl is missed, search is made, and the pair are tracked. On their discovery, the man's tribe is informed, and the elders of both tribes gather, and much talk and wrangling ensues. There are two main questions : Can a girl of the man's tribe be given in exchange for the stolen woman ? and is his tribe willing he should stand an ordeal punishment ? If the first solution is impossible, owing to no one's coming forward with a woman, the second question is debated as being a solemn obligation. The ordeal punishment is then carried out after the usual way in such cases.[86] The thief, if he passes through the punishment without much scathe, claims the woman as wife ; if he is seriously hurt, the woman goes back to the kinsman who is her owner.

Often an elopement is winked at, and the search for the girl is purely formal.

We may now give a short account of the customs regulating intertribal marriages in various parts of Australia. These customs, of course, are the same in the case of marriages between intratribal local groups.[87]

In the *Central and North-Central Area*[88] there are four ways of obtaining wives : (1) By magical charming, (2) capture, (3) elopement, (4) " tualcha murra " (an arrangement between

[86] Described below in Chapter VIII., § 3.

[87] So far as the context does not show it to be otherwise, or there is no express statement to the contrary, they are the same for marriages within the same local group.

[88] See Spencer and Gillen, " The Native Tribes," etc., pp. 554-556, 558, 559 ; " The Northern Tribes," etc., pp. 32, 33.

two fathers). The method by charming is fully recognized, and a man's claim on such grounds is supported by his local group, provided the woman belongs to the right marriage class ; the after-procedure is the same as in the case of elopement. The method of capture proper is much rarer (if, indeed, it ever occurs). What looks like capture is often an elopement. Elopement is often the cause of serious trouble between two local groups : (*a*) Either the pair are followed and perhaps both killed ; or (*b*) the injured man fights the injurer, and the two groups may take part in the fight through excitement ; or (*c*) if the injured party is willing to give up the woman, then the injurer merely has to stand on ordeal punishment without retaliating. The fourth method (betrothal) is the most usual.

Dieri.—Their intermarriages did not extend beyond the Yantruwunta tribe.[89] Marriages between the Dieri and adjacent tribes are " state affairs," and the subject of several months' negotiations in each case. As a preliminary, presents are sent to the woman's father, to the headman of the tribe,[90] and other principal men. These are returned if negotiations fall through. If both sides really wish to end disputes and settle grievances, the proposals may be agreed to in a few weeks. The couple have no voice in the arrangements. In the tribe[90] itself, there is always strong opposition to a marriage which takes a girl out of it, especially on the part of the fathers with unmarried sons. When a marriage is settled, a " corobori " is held at an agreed place near the boundary between the two tribes,[90] and the festivities last several days (with free " piraura " intercourse between the sexes). If the girl tries to escape from her husband, she is brought back, and sometimes punished, otherwise she is well treated.[91] The head of the Dieri sometimes had " piraura wives " assigned to him in each of the neighbouring tribes.[92]

Of the customs of *Southern Australia* there are a few mentions in Taplin,[93] and Howitt.[94]

Victoria.—In West Victoria[95] the consent of the chiefs is

[89] Howitt, " The Native Tribes," etc., p. 192.

[90] We must presume that only the two local groups immediately concerned enter into the business, not the tribes as wholes.

[91] Gason, *ibid.*, p. 186.

[92] *Ibid.*, p. 184.

[93] " The Folklore," etc., pp. 28, 57, 58.

[94] " The Native Tribes," etc., p. 257.

[95] See Dawson, " Australian Aborigines," pp. 26-28, 34, 35.

necessary in all cases of exchange of kinswomen. If a husband and wife agree to separate, the woman must return to her tribe. Besides there being the exogamous clans, which are common to all these tribes, the tribes are also exogamous to one another, and with definite restrictions likewise.[96]

In the Kulin "nation," too, in addition to the exogamous clans, there were certain intermarrying localities in intertribal marriages.[97] One of the Kurnai "divisions" intermarried with a certain locality of the Bunurong.[98]

We may note here that the Kurnai did not lend their wives to guests, nor did the Gurnditch-mara.[99] The members of the tribes of the Wotjo "nation" commonly made their arrangements at the great intertribal gatherings for ceremonial or festivities. The bartering of articles accompanied such arrangements in each case, the arrangements being made by the elder brothers on behalf of the proposed husbands, and having to receive the sanction of the fathers.[100]

New South Wales.—The tribes of the Hunter River district, when friendly, exchanged visits. At these they abducted or eloped with one another's unmarried women, with mutual connivance.[101] Marriages were also arranged.[102]

Queensland.—The intermarriages of the Wakelbura and allied tribes[103] were regulated both on a class (clan) basis and on a local basis.[104] We have here also the same custom

96 See also Howitt, "The Native Tribes," etc., p. 250.

97 *Ibid.*, p. 252.

98 *Ibid.*, pp. 257, 272.

99 Fison and Howitt, "Kamilaroi," etc., pp. 205, 277.

100 Howitt, "The Native Tribes," etc., pp. 241, 242. For further references to this area, see Howitt, "The Native Tribes," etc., pp. 194, 249, 263.

101 Dawson, in Howitt, "The Native Tribes," etc., p. 268.

102 *Ibid.*, p. 267. For other mentions of New South Wales, see Collins, "An Account," etc., vol. ii., p. 362; Howitt, "The Native Tribes," etc., p. 267; Curr, "The Australian Race," vol. iii., p. 353; Transactions of the Philosophical Society of New South Wales (1865), p. 372; *Science of Man*, N.S., vol. v., p. 68; September, 1898, p. 180; Angas, "Savage Life," etc., vol. ii., p. 225.

103 As usual, the reference is probably really to local groups.

104 Muirhead, in Howitt, "The Native Tribes," etc., pp. 225, 226. Howitt remarks (p. 62) that we are here perhaps dealing with the hordes (local divisions) of one tribe.

of capturing (in form) wives at the intertribal assemblies,[105] but only the visitors captured wives from the hosts.[106]

Tasmania.—We know nothing about the existence of a descent classification,[107] nor about intertribal marriages in this area.

§ 3. BARTER.

In most parts of Australia we find a system of intertribal bartering existing as a recognized and regulated institution ;[108] but the variety of products exchanged is, of course, small, consisting mainly of a few natural products belonging to certain districts and wanting in others, together with the arms and implements for which certain tribes may be renowned.

Peaceful relations prevail while the bartering is carried on.

Only barter is known in Australia ; there is no commodity recognized as a medium.

Among the central and north-central tribes men of particular districts are famous for making certain implements and weapons, and this gives

[105] "The Native Tribes," etc., p. 225.

[106] Further Queensland references will be found in Howitt, "The Native Tribes," etc., pp. 237, 280 ; W. E. Roth, "Ethnological Studies," p. 56 ; Lumholtz, "Among Cannibals," etc., p. 164 ; Curr, "The Australian Race," vol. iii., pp. 122, 272.

[107] Ling Roth, "The Aborigines," etc., p. 115 ; Bonwick, "Daily Life," etc., pp. 61, 62. Roth (p. 112) and Bonwick (pp. 61, 70) suggest that the tribes were, as a rule, exogamous ; but such surmises are worthless, and, moreover, against the probabilities.

[108] *Cf.* Curr, "The Australian Race," vol. i., pp. 77, 78 ; vol. ii., p. 71 ; Smyth, "The Aborigines," etc., vol. i., pp. 180, 181. Nothing is known as to bartering among the Tasmanians (H. L. Roth, p. 153).

rise to a very widespread intertribal[109] bartering.[110]

The "pitcheri" and red ochre which the Dieri got from their yearly armed expedition[111] was bartered to other tribes.[112]

The Yantruwunta got shields from neighbouring tribes, who had got them from others still further away ; they gave weapons and grinding-stones in exchange.[113] The information from these south-central tribes indicates an extensive system of intertribal communication and barter carried on by men who were recognized agents. There are also established trade centres at which the tribes meet at certain times for a regulated bartering.[114]

There are three occasions on which, in this district, intertribal barter is carried on. First, to mark the settlement of a blood-feud ; second, at the assembly for the great initiation ceremony ("wilyara") ; third, when the newly-initiated youth is sent out after the ceremony to call the people together for a market in his honour. At the end of some months various tribesmen assemble and exchange articles.[115]

The Lower Murray tribes carried on barter regularly ; there were also regular gatherings for the purpose, and festivity and corobori-dancing at

[109] The expression "intertribal" in this whole connection must, as elsewhere, be taken to cover bartering between local groups within the same tribe.

[110] Spencer and Gillen, "The Native Tribes," etc., pp. 586, 587 ; "The Northern Tribes," etc., pp. 12, 633, 634.

[111] See § 1 above.

[112] Gason, in Howitt, "The Native Tribes," etc., pp. 710, 711.

[113] *Ibid.*, p. 714. See also Smyth, vol. ii., p. 305.

[114] *Ibid.*, p. 714. See also p. 716.

[115] Siebert, in Howitt, pp. 715, 716.

the same time ; to these fairs large numbers went.[116] It is stated[117] of these tribes that in each one were one or two men called "messengers" ("guala wato"), whose persons were sacred amongst the other tribes. They carried news, and conducted all negotiations connected with barter. For bartering with the coast tribes the following method was used to secure trusty agents :[118] A man kept the umbilical cord of one of his children, and tying it up in feathers (a "kalduke"), he gave it to a father in another tribe ; the children of the latter were henceforward "ngia-ngiampe" to the first child, and reciprocally ; each of the parties was forbidden all intercourse with the other. On growing up they became agents, or third-men, and through them all barter was carried on (but, of course, they had to communicate through third parties). This "ngia-ngiampe" relation might be made a temporary one.

At the periodical great meetings in West Victoria bartering was carried on.[119]

In the Jajaurung territory (Victoria) there was a stone quarry from which the tribes to the north-west were supplied with axe-heads ; this belonged to, and was in charge of, one man. The Jajaurung public messenger would bring word that a tribe

[116] See Transactions of the Philosophical Society of New South Wales, 1865, pp. 361, 365, 366, 367. See also *Journal of the Royal Society of New South Wales*, vol. xvii., p. 20. Some of the articles eventually went far to the north. See also Angas, vol. i., p. 72.

[117] Beveridge, in Smyth, "The Aborigines," etc., vol. i., pp. 181, 182.

[118] *Ibid.*, p. 181.

[119] Dawson, "Australian Aborigines," p. 78. He says attendance at these great meetings was compulsory on pain of death. See also Howitt, "The Native Tribes," etc., p. 718.

needed stone, and it would be carried by a messenger for barter to the next great assembly ;[120] or the tribesmen would send or come themselves.[121]

There are several observations of regular bartering in New South Wales,[122] the articles often travelling long distances ; so also in Southern Queensland.[123]

In North-West Queensland there is a great bartering system at work almost continuously throughout the various districts.[124] There are trade-routes laid down from time immemorial through the various tribal districts, along which the various tribesmen journey unmolested ; these are strictly kept to, and generally follow watercourses. The opening of a local market may take place at the instance of an elder at one of the larger camps, when instructions are issued when and where to go, what to take, and what to return with. In smaller camps such peregrinations may

[120] Howitt, pp. 689, 690. See also Smyth, " The Aborigines," etc., vol. ii., p. 298. (All quotations from Howitt, unless otherwise stated, refer to his " The Natives Tribes," etc.).

[121] Howitt, pp. 311, 312. If they took the stone without leave, it caused trouble with the owner's family.

[122] See Howitt, pp. 717, 718 ; *Science of Man*, September, 1896, p. 18 ; Fison and Howitt, " Kamilaroi," etc., p. 280.

[123] *Journal of the Royal Society of New South Wales*, vol. xxiii., p. 41 ; Petrie, in Howitt, p. 768.

[124] W. E. Roth, " Ethnological Studies," p. 132. A description of some of the main trade-ways in North-West Central Queensland will be found on pp. 134, 135, of that work. Roth observes (p. 136) : " This system of inter-communication, necessitated by exchange and barter, is one to which far too little importance appears to have been attached by European writers," and has not been always allowed for in ethnographical collections of implements, etc. See also Lumholtz, p. 333.

begin when it is thought there is any "pituri" ("pitcheri") for disposal. Sometimes, too, an individual will start on the road on his own or friends' account. The "walk-abouts" are generally in the winter, as being the rainy season. Such journeys may last several months, or even a year. The barter-fairs, when large numbers assemble, are also occasions for general festivity, and new coroboris are performed, and are put in circulation, as also are new ideas and customs.[125]

In cases of bartering through an agent a message-stick is used as a token of good faith, and to identify the bearer of goods sent in payment.[126]

[125] W. E. Roth, "Ethnological Studies," p. 134. The different parties who arrive for the fair take up their quarters round the hosts' camp according to the direction whence they come.

[126] W. E. Roth, "North Queensland Ethnography," bulletin 8, pp. 9, 10. Roth holds the sticks do not carry a definite message, and that they do not give immunity in trespassing on tribal territory. In the latter case, he says, the native would avoid risk by travelling only at night.

For further mention of bartering in North Queensland, see *Science of Man*, November, 1898, p. 211. Roth ("North Queensland Ethnography," bulletin 3, par. 39) again speaks of the bartering in North-West Central Queensland of the drug "pituri."

VI

THE LOCAL GROUP AND THE NON-MEMBER (EXCLUDING INTERGROUP JUSTICE)

§ 1. GENERAL.

It was stated above (see Chapter V., § 1) that in general the relations between strange tribesmen were those of determined and deadly enmity. Careful examination, however, leads us to believe that this broad statement is subject to many modifications; it probably holds in its extreme form only as between those tribes which are utterly unknown to one another, each of which looks on the other as "barbari." There is abundant evidence that the individual of an alien tribe which is known, or one who comes with proper introduction or credentials,[1] finds hospitality within another tribe, while we have repeated cases of the domicilement of alien tribesmen.

We find, too, tribes meeting to consult about their policy.[2]

Salvado says:[3] "Quand un sauvage arrive auprès d'un autre sauvage son ami, il est reçu affectueusement, et on partage avec lui ce qu'on a d'aliments au risque parfois d'en manquer

[1] Inter-group heralds and messengers will be discussed in the next chapter.

[2] *Cf.*, for Southern Australia, Eyre, vol. ii., pp. 225, 226.

[3] "Mémoires," etc., p. 320.

soi-même. Cette hospitalité est généralement pratiquée par les Australiens, de sorte que la portion la plus grande et la plus belle est offerte à l'étranger, et il n'arrive jamais qu'on manque à ce devoir de civilité."

Gason says[4] of the Dieri that "a more treacherous race I do not believe exists," yet "they possess in an eminent degree . . . hospitality. . . . Should any stranger arrive at their camp, food is immediately set before him."

It would appear that sometimes a man who has kinsmen through marriage or descent in another tribe will be free of that tribe, and welcomed as one of themselves, and he may live with it part of the time. In this way a man may claim membership of two or more tribes, and speak their dialects.[5]

§ 2. VISITORS, AND FORMS OF RECEPTION.

In all parts of Australia we find that visits by individuals or parties take place to alien tribes, or to other local groups within their own tribe, and there are accompanying forms and ceremonies.[6]

In the Warramunga tribe (central area), at a tribal assembly for totemic ceremonies, one of the five elders in charge of the proceedings was observed to belong to a foreign tribe, the Worgaia. This particular man frequently visited the tribe, and, being a distinguished medicine-man, actually took the lead in the Warramunga totemic ceremonies.[7]

[4] Curr, "The Australian Race," vol. ii., pp. 45, 46.

[5] See Howitt, pp. 248, 249 (Central Queensland), 511. From Central Australia we have mention of a case where a tribe (the Pono), having become much reduced in numbers, many individuals from tribes occupying less desirable country joined them (Crozier and Dewhurst, in Curr, vol. ii., p. 152).

[6] *Cf.* Curr, vol. i., p. 63 (Associated Tribes); Gason, in Curr, vol. ii., p. 50 (Dieri and neighbours). Among the Australians the waving of green boughs is a token of peace (*cf.* Curr, vol. i., p. 86; Smyth, vol. i., p. 28).

[7] Spencer and Gillen, "The Northern Tribes," etc., p. 22.

In these central tribes visits are constantly being made by individuals or parties to friendly distant local groups. If it is only one man paying a visit, he will often announce his coming to the camp by a series of smoke signals, to show he has no secret intentions. When in sight of the camp, he sits down silently till an older man comes and sits down beside him. If he has messenger's credentials he hands them over, and then perhaps will be invited into the camp and given a temporary wife (within the proper class).[8]

Where there is a visiting party, there is much more ceremony.[9] In the case of a visit paid by some Walpari to a Warramunga camp,[10] news was sent on ahead of the approaching party, and six of the Warramunga (including members of some of the visitors' totems) went out about a mile to meet them, taking food and water. The visitors stopped here for some hours ; then the local tribesmen assembled about a quarter of a mile from the camp in three groups, one of which consisted of Warramunga women from the district adjoining the Walpari, who were decorated, and welcomed the visitors by gestures. The visitors now approached, escorted by some of the Warramunga men from localities adjoining the Walpari ; they went through various evolutions, holding their spears so as to show there was no hostile intent,

[8] " The Northern Tribes," etc., pp. 569, 570. *Cf.* B. Smyth, vol. i., p. 135.

[9] *Cf.* the account in *ibid.*, pp. 570-574. This account refers to a visit to a local group within the tribe (Arunta) ; but there is no essential difference between this case and the case where the group visited is extra-tribal.

[10] *Ibid.*, pp. 29, 30, 576-579.

and at a signal the group of women already mentioned fell in behind them and, after joining in the evolutions, returned to their places. The strangers then sat down, with their backs turned to the Warramunga, and there was a few minutes' silence. At a signal from the old man at the head of the Warramunga party, the before-mentioned group of women came forward, and threw pieces of meat and damper to the visitors. Then the Warramunga retired, except the old man and two others ; he called up one of the visitors, and handed over a damper of seeds (which had been in front of him all the time) with polite apologies for its worthlessness. After this had been eaten the visitors were led into the camp, and corobori was danced in their honour. During the next few days the visitors were allowed to witness the totemic ceremonies.[11]

Such forms of reception will be found, with variations of detail, throughout Australia ; the forms in the case of a party naturally being more elaborate than in that of an individual.[12]

In Victoria[13] an invited strange tribe is introduced by members of a third tribe, known to both, who, to a large extent, are responsible for the introduction. The visitors are welcomed amid various ceremonies.[14] During the first day they are

[11] But two recently initiated youths only approached the ceremonies by special invitation.

[12] *Cf.* Eyre, " Journals," vol. ii., pp. 219-222, 225 (for Southern Australia) ; *Science of Man*, N.S., vol. iv., p. 203 ; " Missionary Notices of the Methodist Conference " (London), vol. v., p. 323 (for New South Wales).

[13] Smyth, vol. i., pp. 134, 135.

[14] Some symbolical of giving them the freedom of the territory and its products.

waited on ; food is set before them, and huts built.

The Kurnai did not molest individuals of the Brajerak (their deadly enemies) if they were introduced by Kurnai men. But if the aliens quarrelled with their hosts and left them, they would be attacked and killed ; and they were always subject to the ordinary tribal laws and penalties.[15]

In Victoria, if the visitors were not invited, but came on some special business, they had to announce themselves. There are certain forms to be observed ; then, the elders of each tribe [16] having conferred together, the new-comers enter the camp, and afterwards make one of their own near it.

In the tribes round Maryborough[17] (South Queensland) a traveller who can speak the language of those dwelling in a place where he arrives, so that he can make known to them his name and descent, is hospitably treated ; but if he cannot satisfactorily declare himself, he is almost certainly killed. Such a man, if gifted with physical or social accomplishments, and if generous, will be lent a wife (from the proper class).[18] A man might in this way make himself friends over a very wide area.[19]

Among the North Queensland tribes[20] anything may be done to a non-tribesman, unless he is known as a friend or comes to see one ; the man he visits is responsible for his conduct. If an offence is committed on a visitor, his people may call on the injurer to answer for his conduct, and

[15] Fison and Howitt, " Kamilaroi," etc., p. 222.

[16] That is, each local group.

[17] Aldridge, in Howitt, pp. 234, 235.

[18] But any intercourse between a stranger and a woman without the husband's consent would cause trouble.

[19] Aldridge, *ibid.*, p. 235.

[20] W. E. Roth, " North Queensland Ethnography," bulletin 8, pp. 7, 8.

as a result both camps[21] may be drawn into hostilities. In fact, the treatment of a non-tribesman greatly depends upon the fighting strength of his friends; the general underlying principle seems to be that whoso is not a friend must be an enemy. "To a friend the native invariably shows every hospitality, the sincerest expression of which is the temporary loan of his wife."[22] The reception of visitors and strangers is one of those tribal (local group) affairs which is the business of the elders' council.[23]

When Howitt was exploring in Central Australia, he had a native guide from Lake Torrens. On this man's return, the elders of the Dieri (to which tribe he did not belong) decided he must be killed for leading white men through the Dieri country, and he was speared while in one of the Dieri camps.[24]

Howitt was told by the Kurnai that they would do the same in the case of an alien tribesman, but if one of their own tribesmen had done this, he would be got rid of by magic rather than by open killing.[25]

From West Australia certain fixed forms of reception are described by Salvado.[26]

As a preliminary to the friendly welcome of a visiting party, there often takes place a ceremony typical of the wiping out of all old grudges and scores on each side. Thus, Eyre,[27] describing the visit of one tribe to another, says the hosts sat

[21] This is equivalent to local groups.

[22] "North Queensland Ethnography," bulletin 8, p. 8.

[23] *Ibid.*, p. 5. See *ibid.*, p. 8, for the forms of reception of a stranger individual.

[24] "Kamilaroi," etc., p. 222.

[25] *Ibid.*

[26] "Mémoires," p. 319. An important part is the disposing of their arms by the visitors so as to show peaceful intentions; the natives who come out to greet and bring them in are fully armed. *Cf.*, further, Mann, in *Science of Man*, N.S., vol. vii., p. 46.

[27] "Journals," vol. ii., pp. 221, 222.

down in a row, in war-paint ; the visitors halted about 100 yards off, and some of their women, after lacerating themselves in the sight of each party, went up to a member of another tribe among the hosts, and tried to get him to revenge the death of a kinsman or friend ; this he refused to do against his hosts. Then the invited tribe was harangued by one of their men on their losses, and some of them speared certain of their hosts in the arm, encouraged by the latter themselves. Meanwhile the leading men of each tribe were accusing one another of having been accessory to the death of some of their people ; this each side disclaimed, and put the blame on other tribes. At length, this duty having been performed, the friendly welcome began.

Spencer and Gillen describe these preliminaries at a visit paid by a party of Southern Arunta to a group of Northern Arunta,[28] which are typical of the incidents of such visits. After a preliminary dance, some of the local natives began taunting one of the visitors with an offence against proper mourning, and threw boomerangs at him, which he avoided ; then, having thrown his, and embraced one of the taunters, he cut himself, and all were reconciled. The same performance was gone through in the case of two other of the visitors.

[28] " The Northern Tribes," etc., pp. 570-576. This is a meeting of two intratribal groups. In such cases there is no essential difference between intratribal groups visiting one another and the visits from a party of extra-tribesmen.

These writers say (p. 571) when a number of strangers arrive in a camp there is always a danger of quarrels.

In this case also the visitors wore flaked sticks, a sign of war, which their headman collected and burnt.

There was then a short pause, but all were worked up and excited ; suddenly one of the local men challenged a visitor to fight, accusing him of killing his brother some years ago. The man challenged stood up, merely defending himself with his shield against the boomerangs of his opponent, and not retaliating; the third boomerang wounded him badly, after which the old man stopped the fight. Then immediately one of the local men accused a visitor of familiarity with his "lubra" ; hereupon both men threw their boomerangs, but without hurt. Next one of the local group accused a visitor of having brought about his "lubra's" death a year ago ; both sides ran up round the accuser, and the women pranced about on the scene. For more than half an hour everyone was accusing everyone else of having done something or other. This being at last over, the same local man accused one of the marriage classes on his own side[29] of neglecting proper mourning, whereupon the hubbub again began, the women rushing in between their kinsmen, and the old men in vain trying to still the storm ; for three hours this hubbub went on, all being on the point of fighting, or attempting to fight, then things quieted down. Relations were somewhat strained during the next day, but after that the ill-feeling died away.

The underlying principle in all these cases seems to be that no friendly relations are possible till all offences have been wiped out by corresponding

[29] Note how the excitement becomes diffused, so that everyone is ready to fight anyone else.

penalties, the need for revenge being a primal instinct.

In many, or most, tribes the lending a wife to the visitor is an essential part of hospitality, but such intercourse only takes place within the ordinary restrictions of the marriage classification.[30] There are tribes, however, who do not lend women in hospitality.[31]

§ 3. ASYLUM AND DOMICILEMENT IN ALIEN TRIBES.[32]

An offender against tribal laws may seek to escape the penalty by flight, the most frequent of such offences being those against the marriage customs.

Marriage between members of any other but the appointed classes is nearly always punishable by death. A man might also flee his tribe to escape the consequences of elopement.

There are undoubtedly recorded cases of fugitives finding asylum in other tribes.[33]

[30] See Spencer and Gillen, "The Native Tribes," etc., pp. 101, 102; "The Northern Tribes," etc., p. 140; Transactions of the Philosophical Society of New South Wales (1865), p. 372; Smyth, vol. ii., p. 301; Howitt, "The Native Tribes," etc., pp. 224, 258.

If the classifications were not identical, the woman had to be of the equivalent class.

[31] *Cf.* Howitt, "The Native Tribes," etc., p. 260 (Narrang-ga of South Australia); p. 280 (Chepara, Queensland); p. 245 (Wotjobaluk, Victoria). The North Kamilaroi allowed the woman a voice in the matter (p. 208).

[32] It is impossible to say on the evidence here how far there are cases of men changing for any reason their local group, but within the same tribe.

[33] In spite of Curr's remark ("The Australian Race," vol. i., p. 62) that, "as a rule (to which . . . there are some exceptions) tribes do not afford asylum to strangers at variance with their own kith

The Kurnai, indeed, told Howitt that an alien tribesman would not be granted asylum against an avenger of blood, but their statements were not perfectly sure.[34]

Among the Wakelbura tribes of South Queensland, in cases of elopement between members of two different tribes,[35] even if the couple were left together, the man would probably join another tribe, for otherwise, whenever the man's own tribe and the woman's met, there would be fights between their kinsmen.[36] If a man from a distant tribe ran off with an unmarried Wakelbura woman, provided the woman's betrothed should die, the eloper could become safe from molestation by the woman's kinsfolk by joining her tribe. His own kindred would not resent this, and henceforward he would be called by the name of the tribe he joined, and fight for it even against his former tribe.[37]

On the Lower Murray, Beveridge gives[38] the case of a murderer who fled from the usual "ordeal" punishment. He got into favour with a tribe at feud with his own, and was adopted by them, and safe from being given up.

A case reported from the Wiimbaio (New South

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and kin, so that he could not join another tribe in any capacity." Smyth says (vol. ii., p. 276) that a man who has thus been outlawed takes to an unfrequented part of the country, but is seldom able to bear this more than a few months, when he returns and takes the proper punishment, and is wholly forgiven.

[34] Fison and Howitt, "Kamilaroi," etc., p. 221.

[35] Local groups are probably referred to.

[36] Howitt, "The Native Tribes," etc., p. 224.

[37] *Ibid.*, p. 225.

[38] *Journal of the Royal Society of New South Wales*, vol. xvii., p. 56, and "The Aborigines," etc., p. 109.

Wales) shows that a domiciled non-tribesman was fully subject to tribal law. In this instance it was suspected that the alien meant to return to his tribe, and work magic on the Wiimbaio, and perhaps steal one of their women. He was sentenced to death by the elders.[39]

In some cases it would seem that a man, on marrying, became one of the woman's tribe,[40] but in this event he did not in some cases take part in the intertribal ceremonial fights.[41]

Among the Belyando tribes of Queensland are found domiciled aliens who have fled their own tribes to escape the consequences of imputed witchcraft.[42]

In the areas where introcission is practised we find cases of domiciled alien tribesmen who have fled to escape the rite.[43]

In cases of domicilement, if the descent organization of the alien's old tribe is not the same as that of his new tribe, the two are combined and harmonized for the particular case, so that the alien's marriage may be in harmony with each system.[44]

[39] M'Kinlay, in Howitt, p. 334.

[40] Howitt, p. 220 (Kuinmurbura, New South Wales) ; Aldridge, *ibid.*, p. 234 (Maryborough tribes).

[41] Howitt, p. 220 (Kuinmurbura).

[42] Muirhead, in Curr, vol. iii., p. 28. *Cf.* also Smyth, vol. i., p. 130 ; Curr, "Recollections," etc., pp. 410, etc.

[43] *Cf.* W. E. Roth, "Ethnological Studies," p. 178 (Cloncurry District). In this particular district the rite is not practised.

[44] *Cf.* for the central area Spencer and Gillen, "The Native Tribes," etc., pp. 68, 69 ; "The Northern Tribes," etc., p. 123. We may note here that there were numerous cases in early days of the adoption of white men into tribes (*cf.* Smyth, vol. ii., p. 319).

VII

MESSENGERS—HERALDS—NEGOTIATIONS

From all parts of Australia we have notices of the existence of messengers and heralds between the local groups, both those which are part of the same tribe and those which lie in different tribes, their persons being sacred. The arrival of these heralds or messengers at a camp was generally accompanied by certain forms of reception very much resembling those used in the case of other individuals.[1]

In most, but not all, parts of Australia the message-stick[2] is in use, or else some distinguishing

[1] *Cf.* Curr, "Recollections," etc., pp. 130-132 (Victoria). Waitz remarks ("Anthropologie," etc., part vi., p. 791): "Auch, wenn das Wort erlaubt ist, der diplomatische Verkehr der Stämme untereinander hat eine bestimmte Form."

[2] See mentions of message-sticks by Curr, "The Australian Race," *passim*; W. E. Roth, "Ethnological Studies," p. 137, and "North Queensland Ethnography," bulletin 8, p. 9; and others. We may here leave aside the question whether these sticks carry a definite message. Smyth (vol. i., Introduction, p. liii) and Lumholtz (p. 303), among others, hold that they do so; but the balance of opinion seems against this view (*cf.* W. E. Roth, "Ethnological Studies," p. 137). See, further, Howitt, pp. 691-710; Bucknell in *Science of Man*, vol. v., pp. 170, 171, 187, 188; Curr, "The Australian Race," vol. ii., p. 205. The Gippsland tribes, among others, did not use message-sticks (Curr, vol. iii., p. 549). *Cf.* also Smyth, vol. i., pp. 354, 356.

badge is used as the messenger's credentials, or to insure his safety in otherwise hostile country.

In some of the tribes of the central area the messengers took women with them, with whom the men of the local group visited have intercourse, irrespective of class restrictions,[3] provided they accept the invitation conveyed by the messengers, or agree to their request.[4]

Among the Dieri, when neighbouring tribes are invited to initiation ceremonies, the messenger is some noted old man ; but for other matters, which might be attended with danger, or where treachery is feared, women are sent.[5]

In the case of disputes with neighbouring tribes, women are always chosen by the Dieri as messengers, and, if possible, those belonging to the tribe concerned. They are accompanied by their "piraura" husbands. It is understood that they are to neglect no means to insure success (always having regard to the class rules). If the mission is successful, there is always a time of free intercourse between it and the other tribe. The members are treated as distinguished guests, and given presents on leaving. If it is unsuccessful, it brings back threatening messages.[6]

In cases where the mission has been successful, it is generally accompanied back by women of the

[3] This seems to betoken the importance in which the messenger's office and visit are held.

[4] Spencer and Gillen, "The Northern Tribes." etc., p. 139.

[5] Gason, in Howitt, p. 681.

[6] Gason, *ibid.*, p. 682. Gason says that formerly the women were wives of the headmen.

other tribe to bear witness to the latter's approval.[7]

If a Dieri messenger—that is, one between Dieri local groups—of no importance arrives at a camp, he is received with but little ceremony, but is, if friendly, hospitably entertained by one of his own totem. However, a friendly man of influence, arriving at a camp, is received with certain ceremony.[8]

Among the aborigines of Cooper's Creek were certain old men who travelled among the tribes carrying news, and whose persons were inviolable.[9]

Among the Lake Alexandrina tribes the "ngiangiampe" above described[10] act as intertribal messengers.[11]

The Lower Murray tribes had one or two "guala watto," or messengers, in each tribe, whose persons were sacred even to enemies. They negotiated, carried news, and were barter agents, and spoke several dialects.[12]

Among these tribes, when one tribe approaches

[7] Gason, in Howitt, p. 683. He says these agreements are generally kept. *Cf.* also Gason, in Curr, vol. ii., p. 49. This account holds likewise for the tribes who are the Dieri's neighbours (*cf.* Howitt, pp. 185, 684). Here we may refer to the case of the envoys allowed to fetch ruddle from east of Lake Torrens (see Chapter IV., end).

[8] Siebert, in Howitt, pp. 684, 685.

[9] Smyth, vol. ii., p. 305. *Cf.* also Fison and Howitt, "Kamilaroi," etc., p. 193.

[10] Chapter V., § 3.

[11] Taplin, "The Folklore," etc., p. 41; Smyth, vol. i., pp. 181, 182.

[12] Smyth, vol. i., p. 181; Beveridge in *Journal of the Royal Society of New South Wales*, vol. xvii., p. 19; Beveridge, "The Aborigines," etc., p. 165.

the territory of another, messengers are always sent to announce its coming.

Invitations to initiation ceremonies are sent by young men carrying long nets as credentials.[13]

In the tribes of the south-eastern area there are always men who are free of one or more adjacent tribes through intermarriage. Marriages, indeed, are sometimes arranged to have means of communication for ceremonial purposes. Sometimes such ceremonial messengers are women.[14]

Of messengers and news-carriers in general we have information in the case of various Victoria tribes—the Bangerang,[15] the Kurnai,[16] the Jajaurung,[17] and the Wotjobaluk.[18]

In each of the tribes of South-West Victoria there are messengers attached, selected for their intelligence and knowledge of dialects. They are employed to carry information between the tribes (such as of great meetings, coroboris, marriages, burials, proposed battles). Their persons are sacred while on duty, and they distinguish themselves from spies or enemies by generally travelling two together, and being painted according to the nature of their message.[19] Arrived at a camp, they

[13] Eyre, "Journals," vol. ii., p. 220. Sometimes white cockatoo-feathers are worn on the head, to betoken peace and insure passing over other tribes' territories (Transactions of the Philosophical Society of New South Wales, 1865, p. 364).

[14] Howitt, p. 678. *Cf.* also *ibid.*, p. 254, for Victoria.

[15] Curr, "Recollections," etc., p. 281.

[16] Howitt, p. 83.

[17] *Ibid.*, p. 689.

[18] *Ibid.*, p. 690.

[19] Dawson, p. 74.

sit down for a little in silence, and then one of them intones the message.[20]

Messengers are used, too, among the friendly tribes to call together men when a chief seeks advice.[21]

Sometimes a tribe sends two messengers to test the disposition of such a meeting. On arrival they announce their names and tribe, and retire to a friend's hut. If no objection is made when one of their spears is set up in the camp by the chief, this is a sign of friendship ; but if their tribe's friendship is not sought, they are given the hint to depart by pieces of burning bark being given them for fire-sticks, whereupon they at once leave, and may be perhaps pursued.[22]

There were regular messengers, called " lewin," between the Kurnai primary local groups,[23] used to call them together for initiation ceremonies, and so on.[24]

Such " lewin " were also used to communicate with other, perhaps hostile, tribes.[25]

In the New South Wales tribes the elders' council in each local group appoints a herald or messenger. He must be an orator, have a knowledge of neighbouring dialects, and be a good traveller. His person is inviolable among hostile tribes, and is known by a red net round his fore-

[20] Dawson, p. 74. In the case of one such messenger mentioned, who had been a noted warrior, he was chosen to see fair play in intertribal judicial battles (*ibid.*, p. 75). [21] *Ibid.*, pp. 72, 73.

[22] *Ibid.*, p. 73. [23] Which Howitt calls " clans."

[24] Fison and Howitt, " Kamilaroi," etc., p. 192.

[25] *Ibid.*, p. 193. See, further, Smyth's description (vol. i., p. 133) for Victoria in general of the " weargarre," or public messenger. Smyth says he carried a message-stick painted according to the nature of his message.

head. When sent to a hostile tribe, he makes himself known by a peculiar cry. This brings everyone around him, and after a long silence he gives his message and awaits the answer, perhaps for several days.[26]

He is also made use of to call the intratribal local groups together for various purposes. All who are thus summoned are bound to appear on pain of death.[27]

The Geawegal and surrounding tribes, while possessing these public heralds, had others for less weighty affairs, whose persons were not quite so sacred and safe. These were not sent through dangerous districts.[28]

The Lachlan River tribes had messengers whose persons were sacred. They wore a plume of cockatoo-feathers, and went always straight to the elders of the tribe—that is, local group—visited, no one addressing them till then.[29]

The Wireteri tribe believed the custom of using messengers and message-sticks was taught them by Biamai, their good spirit.[30]

[26] Fraser, p. 41 ; see also p. 67. *Cf.* Howitt and Fison, p. 283 ; Howitt, p. 689.

[27] Fraser, pp. 41, 42.

[28] Howitt and Fison, pp. 283, 284 ; Rusden, in Howitt, p. 689. See also accounts of official inviolable heralds in the Kamilaroi (Naseby, in Howitt, pp. 687, 688).

[29] *Science of Man*, February, 1897, p. 13.

[30] *Science of Man*, vol. iii., pp. 99, 100. For other mentions of messengers see *Science of Man*, vol. iv., p. 54 (Curakdabiji and neighbours) ; Curr, vol. iii., p. 364 (Wiirateri) ; *Journal of the Royal Society of New South Wales*, vol. xvi., pp. 170, 171 ; *ibid.*, vol. xxxiii., p. 116 (Port Stephens district). The informant (Enright) in the last case says that any interference with the messenger's person would be at once avenged, not only by his tribe, but also by the neighbouring tribes.

In some of the North-West Queensland districts a somewhat rare amulet of emu-feathers used to be carried by the messenger sent to ask help from another tribe.[31]

The Maryborough tribes, when initiation ceremonies had been decided on, sent round a party of about a dozen men. They travelled secretly, not being protected by their office. On arriving at a camp, they gave a signal by striking two boomerangs together, and were for the time being exempted from the effects of any feuds.[32]

The Wakelbura chose a messenger who had friends in the tribe he was sent to. If the messenger was molested or killed, not being the aggressor, he would be avenged by his uncles.[33]

Among the natives round Albany in West Australia, if one tribe wishes to communicate with another, a boy between twelve and fifteen is chosen as messenger. Before starting, his nose is bored, and so long as the wound is not healed his person is sacred, and he is treated everywhere with great consideration. On setting out, he is accompanied by friends to the next tribe, in whose care he is put; then he is passed on in the same way to the next tribe, and so on till he has delivered all his messages. He is then sent home in the same way.[34]

[31] W. E. Roth, "Ethnological Studies," p. 163.

[32] Aldridge, in Howitt, p. 691. This account seems to refer only to intratribal relations.

[33] Muirhead, in Howitt, p. 691. For further mentions of intertribal messengers in this area see Howitt, *ibid.* (Buntamura); Mann, in *Science of Man*, vol. vii., p. 47; Howitt, p. 688 (South Queensland); Curr, vol. ii., p. 38 (Thargominda); Curr, vol. iii., p. 37 (Narbo Mure).

[34] Browne in "Petermann's Mittheilungen," 1856, p. 440. He goes on wearing the piece of bone or wood through his nose afterwards as a great distinction.

VIII

THE REGULATED SETTLEMENT OF DIFFERENCES, OR JUSTICE

§ 1. INTRODUCTORY.

We use the term Justice to denote those more or less regulated methods by which differences either between groups or between individuals are composed.

The individual Australian belongs, firstly, to a tribe, and, secondly, to a particular local group within it ; but from the point of view of justice proper, the solidarity of the tribe as a whole does not come into play. The tribe is merely a loose aggregation of local groups, which act independently ; there is no central government directing the tribe as a whole. The tribal unity goes very little beyond the possession of the common name. The only occasion when the whole tribe may assemble is the holding of the initiation ceremonies ; while even in this case, if the tribal territory is very wide, it is only a part which so assembles.

The unit group for justice is the intratribal local group ; it is only in the case of war proper that the tribal unity shows itself, and then only

in the fact that revenge is taken indiscriminately by a party on any members of another tribe that they may meet. But we find no case, even here, of the avenging tribe acting as a whole.

The local groups which are our units for justice may belong to the same tribe, or they may be subdivisions each of a different tribe.

The individual Australian, besides belonging to a local group in a tribe, belongs also to a totem group. These totem groups, in general, form the lowest classes in the various systems existing in Australia for the purpose of fixing descent. These lowest classes we may, with Dr. Westermarck, fittingly call " clans."

But among the Arunta and certain neighbouring tribes the totem group and the clan do not coincide,[1] so that the individual belongs both to a totem group (which is also local) and to a clan.

In a few cases, especially in the south-east, the marriage organization is purely local.

Now, the membership in a clan or totem group comes into play in cases of justice between two members of the same local group : the blood and group kindred of the injured member exact reparation from the offender,[2] or support the former in seeking it. The special case of the Arunta and kindred tribes will be referred to below (§ 2, p. 123).

Within the smallest group of all—the family—the head is generally absolute. But in some of

[1] See above, Chapter II., § 5 (p. 54) ; and also Chapter II., note 147 (p. 55), for South-Western Australia.

[2] Sometimes in union with the offender's kindred. *Cf.* Grey, vol. ii., p. 240 (West Australia).

the tribes we find the wife's kinsmen, or even the elders, interfering on her behalf against the husband.[3]

A new principle emerges when the individuals at variance belong to different local groups. Here that revenge or requital which is the root of justice takes on specific forms, and the solidarity of the local group comes into play.[4]

The local factor in Australia, where the territorial organization is so definite, is all-important. As between members of different local groups, it is the injured man's local group, as a whole, which secures justice, though in many cases the actual execution thereof is left in the hands of his clan kindred.

Between local groups the most important causes of disagreement are women, murder (most often supposed to be done by magic), and territorial trespass. Of these, murder may be avenged by an organized party acting on behalf of the injured local group. But the commonest ways of settling any intergroup differences are either that the wrong-doer or some other (or others) of his group undergoes an expiatory punishment from the wronged person or his kindred, or that a regulated

[3] *Cf.* Westermarck, "Origin and Development of the Moral Ideas," vol. i., pp. 418, 630; Dawson, p. 33 (West Victoria); W. E. Roth, in "North Queensland Ethnography," bulletin 8, p. 6; "Ethnological Studies," p. 141 (North and North-West Queensland).

[4] Steinmetz, vol. i., p. 368, remarks that Spencer does not distinguish revenge against the alien from that against the fellow-member—"Ein bei Ethnografen wie bei Ethnologen gewöhnlicher aber sehr verwirrender Fehler."

combat takes place, either between the parties concerned (or certain kinsmen), or between the two groups as wholes.

These regulated fights between local groups as wholes in settlement of differences are true duels, but in them it is not sought to cause any deaths. They are judicial settlements of intergroup differences to which the name " war " is not applicable.[5]

By the side of this institution, however, we find a form of vengeance or justice which is war properly so called. In this there is no regulated procedure, and any device and method, with few restrictions, is practised.

In Australia territorial conquest is never aimed at. War appears always as the most indiscriminate form of blood revenge, and resolves itself into surprise attacks on single camps.

We shall deal with war proper in the next chapter.

It would seem that it is only in war that the joint responsibility of the tribe as a whole comes into view. The attack seems to be carried out against a tribe as a whole, without discrimination, and any member of the offending tribe who is met will be slaughtered, irrespective of his local group.

[5] Steinmetz has remarked (vol. ii., p. 17, etc.) that these Australian regulated battles represent a means of settling disputes most suitable to a collection of kindred groups with no common government. He deals with them in vol. ii., pp. 3-67 of his work. It is to be noted that his statements as to the absence of government in the Australian tribes are not in accordance with the facts already set forth above.

But the attack will be carried out only by the particular local group offended, not by the tribal whole to which it belongs.

Except, perhaps, in a few instances, as in the case of the Kurnai, war proper is not carried on between intratribal groups.

These few remarks will serve to indicate roughly the lines of the method we are now to pursue. Most of our information as to intergroup justice is vague and undefined, and it seemed necessary to give this preliminary sketch as a guiding-thread in our investigation.

We shall, after giving a short account of justice within the local group, deal with justice as between the local groups.

As between tribes as wholes, regulated justice appears to be practised only in certain cases from North Queensland, so far as our information goes. But in view of the looseness of the tribal structure in Australia, and of the very small distinction of kind between a local group and a tribe, if the tribe is small in area, this point is not important.

We may, perhaps, say that, where reparation or justice is sought from a tribe indiscriminately, war properly so called is the method used.

§ 2. JUSTICE WITHIN THE LOCAL GROUP.

We have seen that the Australian tribe has, in general, a twofold organization—that of local groups and that of marriage classes. To these is sometimes added a third—that of local totems; but in general the totem is identical with the clan.

Every individual belongs to a group of each kind, and the membership in each case brings specific rights and duties. It is to be noted, however, that where the totem does not form part of the marriage organization it does not regulate justice.

The solidarity of a clan (or totem) is the determining factor only in the case of differences arising between individuals belonging to the same local group.[6]

When individuals at variance belong to different local groups, another factor is the determining one—namely, the solidarity of the local group.

We shall see that the actual execution of justice in such cases may often be left to the totems (clans) concerned on each side; but even where this takes place, it is the two local groups involved that are behind the totems and regulate the proceedings, themselves intervening if necessary.[7]

The local membership is, therefore, the most important.

There are local groups of varying extent. We have seen that the tribe is divided and subdivided several times, till finally we reach the family;

[6] Grey (vol. ii., p. 230), writing of West Australia, makes a statement in opposition to this. He says that there is a law "which obliges families connected by blood upon the female side to join for the purpose of defence and avenging crimes." So far as this statement implies that the totem (or clan) solidarity holds in intergroup justice, it is against the evidence of all other observers.

[7] *Cf.* Howitt's remarks, p. 305. There does not seem, however, to be any intervention whatever by the local group in the case below, § 3, i. (*d*), (p. 138).

but it cannot be said for certain whether there is a parallel subdivision of the land into areas of exclusive occupation.

For purposes of justice, the local group which presents itself to us as the unit, after a consideration of the evidence, is that local group which has one or more headmen. But it is to be noted that our information on this point is not definite, and that the local unit for justice was probably not a very rigid one, owing to the loose structure of the tribe. The principles, however, are not affected by this margin of uncertainty.

In war proper the tribe, or sometimes the primary local division (which Howitt calls the clan or horde), appears as the unit from the standpoint of the object (not subject) of justice.

In the Australian tribes a clear distinction is drawn in intragroup justice between offences which are held to affect merely an individual and those offences which are deemed tribal. In the former redress is left in the hands of the injured man or his kindred ; the latter class is dealt with by the elders and headmen, as representing the local group. In this class are comprised such offences as murder by magic, breaches of the marriage regulations, and the revealing of ceremonial secrets.[8] The murder by magic of a fellow-

[8] *Cf.* Howitt, pp. 354 ; 330, 331 (Dieri) ; 332 (Tongaranka) ; 333 (Buntamura) ; 333 (Kaiabara) ; 333, 334 (Turbal) ; 334 (Wiimbaio) ; 334 (Wotjobaluk) ; 336 (Wurunjeri) ; 343 (Yuin, Kamilaroi, Gringai, Geawegal) ; 354 (Chepara). See also Ling Roth, p. 59 (Tasmania).

member of the group is, however, sometimes left to the kindred to avenge.[9]

With regard to all justice which is left in the hands of the individuals concerned and their kinsmen, we must bear in mind that kinship is not reckoned as among ourselves ; it is based on the clan or totem, and is essentially a group kinship.

A man calls " father," for instance, not only his blood father, but all those men who might have married his mother ; and so for all kinds of kinship. For the purposes of justice, the group kinship is the same as actual blood kinship, both as to wrongs suffered and duties to be done.[10]

Here a point of special importance is to be noted about the Arunta and other central tribes : in them the solidarity of the totem does not exist. As we have seen, the totem group here is local, and does not regulate marriage ; its relationship only comes into view at the ceremonies. Solidarity, however, exists between the members of each clan or subclass in the marriage organization.[11] In a dispute, for example, over a woman who is marriageable with either of the disputants, " as contrasted with what takes place in other parts of the continent," each will be helped by his brothers

[9] *Cf.* Spencer and Gillen, " The Native Tribes," etc., p. 48.

At the initiation ceremonies in the south-eastern area, among the principles inculcated on the youths is that they are not to injure their kindred in the widest sense by evil magic (Howitt, p. 639).

[10] *Cf.* Spencer and Gillen, " The Northern Tribes," etc., pp. 95, 96 ; Grey, vol. ii., p. 239. In most cases we have not exact information which kinsmen of the wronged person carry out private justice.

[11] Spencer and Gillen, " The Native Tribes," etc., p. 34.

and the sons of his mother's brothers (the kinship in each case being both by blood and by clan) ; but they will be those belonging to his locality. " If it comes to a general fight, he will have the help of the whole of his local group."[12]

What would seem to be indicated by these statements is that among these tribes the local feeling and the clan solidarity exist constantly side by side ; and in more extreme cases the former becomes stronger than the latter, even within that local group which we have taken as our unit—namely, that with one or more headmen. The Arunta and like tribes seem to present a local solidarity attaching to units smaller than those on which we have based our distinction between intragroup and intergroup justice. But all our interpretations of the evidence from the Central area must be accepted with the caution already indicated above in Chapter ii., § 2.

Where offences are left to be dealt with by private justice, the penalty usually takes the form of the wrong-doer standing out for punishment at the hands of the injured man or of his kinsmen by the throwing of spears and other weapons,[13] or having to fight the injured man or one of his kinsmen.[14]

It is, however, not clear how far exactly the government of the local group intervenes in these two forms of procedure.

[12] Spencer and Gillen, " The Native Tribes," p. 544.

[13] See Smyth, vol. i., p. 81 (Victoria) ; Angas, vol. ii., p. 227 (New South Wales) ; Howitt, pp. 332, 334, 342, 343 (south-east area) ; Beveridge, pp. 111, 112 (Lower Murray). We may here remark that accidentally caused deaths bring punishment on the agent, and this even when they occur during these so-called " ordeal " punishments (*cf.* Smyth, vol. i., p. 81 ; Grey, vol. ii., p. 238). In North Queensland a child may be killed for an offence done by its blood or group kin (" North Queensland Ethnology," bulletin 8, p. 6).

[14] *Cf.* Grey, vol. i., pp. 304, 305 (Western Australia) ; Howitt, pp. 333, 334 (south-eastern area).

The punishment in the first of these cases (sometimes called "ordeal punishment") is strictly regulated, and very often the number of weapons to be thrown is proportioned to the offence. The offender is usually allowed a shield wherewith to defend himself. In the duel a restraining influence is exercised on the combatants, and the fight stops as soon as blood has been shed.

W. E. Roth has given precise and valuable information on the methods of private and tribal justice in North Queensland.[15] Here, as elsewhere, there is a clear distinction between private and tribal (or against the local group) offences.

The settlement of private quarrels, for instance, is an individual concern, but if any serious personal damage is done to one of the combatants in a private fight, the local group intervenes (for it loses the services of one of its members). If, in such a case, the camp council finds that the doer of the injury was justified by the original offence committed by the other, the former merely has to undergo some expiation (such as a knock with a club from the injured man) ; but if it is held that the violence of the assault was not justified, the offender has to undergo exactly the same mutilation or damage from his victim as that inflicted by him.[16] If the victim himself cannot deal out this punishment, certain of his kinsmen take his place. If the fight has resulted in death, the murderer may have to suffer death at the kinsmen's

[15] In "North Queensland Ethnography" and "Ethnological Studies," etc.

[16] *Cf.* Grey, vol. ii., p. 239 (Western Australia).

hands, having first dug his own and his victim's grave. In fact, in a private fight a man, to be free from all chances of accusation, must only deal blow for blow.[17]

In general, if a crime is not held to demand death, it can be atoned for by the wrong-doer taking some punishment in expiation (such as a blow from a club given by the injured man, or having the thumb bitten by him).[18]

If a wife runs away, she is generally brought back by her blood or clan (totem) brothers, and the man, if caught, has to fight the husband.[19]

The second class of offences committed within the local group is held to concern the group or tribe, and is dealt with by the elders and headmen acting on its behalf.[20] In general, such offences are murder (especially by magic), breaches of the marriage laws, and the revealing of ceremonial secrets. Murder by magic, however, committed by one member of the local group on another does not seem often to occur.

Our information as to murder (magical or natural) *within* the local group is scanty and indeterminate. In some cases punishment takes the form of private vengeance by the dead man's kinsmen.[21] But in most tribes such murders

[17] W. E. Roth, "Ethnological Studies," etc., p. 140; "North Queensland Ethnography," bulletin 8, p. 5.

[18] "North Queensland Ethnography," bulletin 8, p. 10.

[19] *Ibid.*, bulletin 8, p. 6. If a wife should die from being punished by her husband, he is called to account by one of her blood or clan brothers (*ibid.*).

[20] Offences which are the objects of supernatural justice, such as the breaking of the food tabu, are not here discussed.

[21] *Cf.* Grey, vol. ii., pp. 239, 240 (Western Australia); Spencer and Gillen, "The Native Tribes," etc., p. 47 (central area).

within the group would seem to be dealt with by the group as a whole (or through its elders) as tribal (group) offences.[22] Possibly a distinction is sometimes drawn between magical and natural murder, the group dealing only with the former. It would seem that incest and the revealing of ceremonial secrets is always a tribal (group) matter.

In the case of such tribal (group) offences we find in many tribes either an armed band or an individual acting on behalf of the elders and headmen to carry out a death sentence.[23]

Among the Central tribes unlawful sexual intercourse is punished by death, and the elders call in the men of a neighbouring local group to carry out the sentence.[24]

Among some other tribes public offences are punished by spear-throwing at the culprit, carried out by the men of the local group (always under certain regulations); or they are punished by death inflicted by the aforesaid men;[25] or, finally, the tribe (group) may intervene and settle disputes, but without setting a penalty.[26]

In North Queensland murder, offences against

[22] See Howitt, "The Native Tribes," p. 354 (south-east area in general); Beveridge in *Journal of the Royal Society of New South Wales*, vol. xvii., pp. 55-57 (Lower Murray); "North Queensland Ethnography," bulletin 8, p. 5 (North Queensland); W. E. Roth, "Ethnological Studies," etc., pp. 139, 140 (Boulia District).

[23] *Cf.* Howitt, pp. 332 (Dieri); 343, (Yuin); 354 (Chepara).

[24] Spencer and Gillen, "The Native Tribes," p. 495. A man may be strong enough to resist and hold his own, but he then leads a life of outlawry and constant fear.

[25] *Cf.* Beveridge in *Journal of the Royal Society of New South Wales*, vol. xvii., p. 55 (Lower Murray); Wyndham, in *ibid.*, vol. xxiii., p. 36 (neighbourhood of Boyne Island); Collins, vol. i., pp. 589, 590 (Port Jackson); Ling Roth, p. 59 (Tasmania); Howitt, pp. 332 (Tongaranka), 333 (Buntamura), 334 (Wiimbaio), 343 (Kamilaroi, Gringai).

[26] *Cf.* Howitt, p. 333 (Kaiabara).

marriage laws, and disturbance of the camp peace, are dealt with by the local group through the elders.[27] An obnoxious medicine-man within the group is executed by order of the elders' council.[28] This council, too, interferes, as we saw above, in case of serious injuries arising in private fights.

From this sketch of justice as it exists within the local group we now go on to justice as between one local group and another.

§ 3. THE REGULATED SETTLEMENT OF DIFFERENCES BETWEEN LOCAL GROUPS (INCLUDING JURIDICAL FIGHTS).

We have seen that in the case of differences between members of the same local group there is solidarity among the members of each clan (totem) or marriage subclass.

We now come to more important aggregates—namely, the local groups themselves.

Membership in the local group invests the individual with definite rights and duties. The wrong done to an individual or individuals belonging to one group by one or more members of another group brings the two groups into conflict, and the relations and methods are different from

[27] *Cf.* W. E. Roth, "Ethnological Studies," etc., pp. 139, 140; "North Queensland Ethnography," bulletin 8, p. 5. This writer always speaks of a "camp" in a meaning which I take to be equivalent to local group.

[28] "North Queensland Ethnography," bulletin 8, p. 5. On the Tully River he is executed with a wooden sword, often on the *prun* ground (see § 3 below).

those which hold where the variances occur only within one local group.[29]

In this section we deal with the regulated settlement of intergroup differences, leaving that method which we have distinctively called "war" to the next chapter.

Maine has said[30] that "it is not peace which was natural and primitive and old, but rather war. . . . What does seem clear to trained observation is the universal belligerency of primitive mankind. Not only is war to be seen everywhere, but it is war more atrocious than we, with our ideas, can easily conceive." With all but the last sentence the facts from Australia will lead us utterly to disagree ; and even in this case we shall find the need of qualification when we come to deal with war in the next chapter.

Another statement by the same writer[31] is a somewhat truer expression of what holds among these tribes : "The number of ancient institutions which bear the marks of a design to stand in the way of war, and to provide an alternative to it, is exceedingly great."

What may be called the peaceful or juridical settlement of disputes between local groups (and sometimes tribes) is most strikingly seen in the regulated fights. We shall now deal with these

[29] Such a statement as the following from Waitz, part vi., p. 793, is indefinite and needs precision : "Unter den Rechtsgrundsätzen stehen zwei oben an : der eine ist Haftbarkeit der Familie, des Stammes für den Einzelnen, und zweitens das jus talionis, das Gesetz der Blutrache." As to Grey's observation, see above, note 6.

[30] "International Law," p. 8.

[31] *Ibid.*, p. 11.

and other methods of settling differences without recourse to war. Some of our examples will show us, however, that regulated justice and warfare proper are not to be considered as fundamentally different, but that the former has probably evolved itself from the latter. We find cases where intergroup justice takes sometimes the regulated form, sometimes the unregulated.

In intergroup regulated justice we distinguish two cases : (i.) The individual offender, or one of his kinsmen, gives atonement to the injured local group ; (ii.) the group as a whole gives atonement to the offended group, either for deeds of its individual members or for offences considered as proceeding from itself as a whole.

(i.) *Justice Inflicted on the Alien Individual.*

There are four different main forms in which regulated justice is inflicted for the delicts of members belonging to another local group. They are :

(*a*) An armed party, or an individual, acts on behalf of the offended group ; or

(*b*) The injurer (perhaps supported by his kinsmen) has to fight the injured man, or his kinsmen (or others) ; or

(*c*) The injurer has to undergo an expiatory ("ordeal") punishment at the hands of the injured man or his kinsmen ; or

(*d*) Rarely, blood revenge is taken on the offender or on one of his kinsfolk by the kinsmen of a murdered man.

We shall consider these forms in detail.

(*a*) *Authorized Agents.*

Among the Central tribes the "atninga" (or its equivalent under other names) is an important institution. When one local group has a grievance against another, "either belonging to the same or to some other tribe,"[32] the headman and elders of the group organize an avenging party under this name. The quarrel is usually due to one of two causes—the stealing of a woman by a man of the other group, or the death of a member is attributed to the magic of someone in this other group.[33]

The "atninga" sometimes steals upon the enemy's camp and surprises it, spearing one or two men.[34] In some cases a regular fight, resulting in severe wounds, will take place. But most often the party marches up to the camp, and the quarrel is confined to a wordy warfare, at the end of which all is over.[35]

We have a description of a case[36] where a local group of the Arunta sent out an "atninga" against the Iliaura (another tribe) to avenge deaths caused by magic.[37] On coming upon a camp of the

[32] These words are important as showing that the same procedure is used both within the tribe and against members of another tribe.

[33] In these tribes, as over all Australia, death arising otherwise than from human violence is set down to an enemy's magic (*cf.* Spencer and Gillen, "The Native Tribes," p. 476).

[34] Spencer and Gillen, "The Native Tribes," p. 490. This is really the form of unregulated justice which we call war. The case is important as showing the near connection between the regulated and the unregulated forms.

[35] *Ibid.*, p. 490.

[36] *Ibid.*, pp. 490-493.

[37] It does not seem that any special Iliaura group was the object of the expedition.

latter, the "atninga" encamped near by, declining the offer of Iliaura women, to show its hostile intentions.[38] A discussion took place between the elder men from both sides, and lasted two days. In the end it was arranged that three men from the Iliaura camp (two of whom had broken the marriage regulations, while the other was feared by his fellows, and boasted of using magic against the Arunta) should be given up and killed, and the rest of the camp left unharmed. At daylight the doomed men were engaged in conversation round a fire a little way from their camp by some of the "atninga," while the rest of the party crept up and speared them (only two; the third man, growing suspicious, had decamped during the night), the Iliaura men looking on. The "atninga" then took the wife of one of the killed[39] and another girl. The party, on returning into the Arunta country, broke up into several contingents, according to the place each came from; and each contingent, on arrival, went through certain ceremonies.[40]

Gason refers to the same institution, under the

[38] *Cf.* "The Northern Tribes," etc., pp. 139, 140. If the offer is accepted, it is a sign that they will not proceed further, and the quarrel is over.

[39] She became the property of the man who seized her, he being one who could lawfully marry her. No attempt was made to catch the women who had broken the marriage regulations; they would be dealt with by the Iliaura themselves.

[40] *Cf.* also the account of the "atninga" in Spencer and Gillen ("The Northern Tribes," etc., pp. 556-568), sent to avenge a death caused by magic. In this case the offender had got away and his father was speared. Apparently the "atninga" generally proceeds by less severe methods, as was said above, although in this account Spencer and Gillen write as though the severer methods were normal.

name of "pinya," among the Dieri.[41] It is said that the usage of this tribe makes the penalty fall on the elder brother of the actual offender.[42]

Among the Dieri there is a practice by which the punishment by the "pinya" may be warded off. The offended group consents to a barter-meeting at some specified time and place. This takes place with certain formalities, and if the offended group is satisfied, the quarrel is over. Otherwise there is an argument and a regulated combat between the two groups.[43]

To this place belongs, perhaps, an institution found among the West Victoria tribes. In certain cases of blood feud, if the murderer escapes the dead man's kinsmen,[44] he gets notice to appear and undergo the ordeal of spear-throwing at the next great meeting of the tribes. If he does not do so, his arrest by two men, called "paet-paet," with some others, is ordered. These go to the camp at night and demand the culprit. They are generally told he is not there. They come again at dawn, but meanwhile the culprit has probably escaped. The party then follows him.[45]

[41] In Curr, vol. ii., p. 50. He says expressly that the "pinya" carries out the execution of a murderer (who has made use either of magic or of natural means), whether he belongs to the Dieri or to another tribe. He is called out of his camp and killed. *Cf.* also *ibid.*, pp. 63, 74; also Gason and Siebert, in Howitt, pp. 326-328.

[42] Siebert, in Howitt, p. 327. It is not said whether blood or group brother is meant.

[43] Siebert, in Howitt, pp. 328-330. It is to be noted that the elder brother of the dead man is authorized to collect the goods for bartering from the offending local group itself.

[44] *Cf.* the cases mentioned under (*d*) below.

[45] Dawson, p. 70. Dawson also says a joint public executioner was employed by the associated tribes (p. 75). It is to be noted that Eyre (vol. ii., p. 389) states of the Lower Murray tribes that

Among the North Queensland tribes,[46] if an alien medicine-man has been doing too much witchcraft, the camp council orders the offender's removal, the procedure being the same as above described in the case of a member of the tribe.[47]

(*b*) *The Injurer* (*perhaps supported by his Kinsmen*) *has to fight the Injured Man or his Kinsmen* (*or Others*).

Of the Victoria tribes in general, Smyth states[48] that when a man falls sick, witchcraft is suspected as the cause. Some local group[49] is fixed on as the offender, and envoys are sent. Finally, a meeting takes place. Those individuals accused have to stand beside the sick man, and he picks out one as being guilty. This man then has to fight one of the members of the offended local group.

In a case which occurred near Maryborough[50] the injurer of a member belonging to another local group, being challenged by the latter's friends, went to the offended local group and fought the challengers one after another, the

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they may compel members to make restitution in such cases as stealing a woman; "but I have never known an instance of one of their number being given up to another tribe for either punishment or death."

[46] Roth, "North Queensland Ethnography," bulletin 8, p. 5.

[47] See § 2 (end), p. 128.

[48] Vol. i., pp. 154, 155. *Cf. ibid.*, vol. i., Introduction, p. xxiv (woman stealing); also Curr, vol. ii., p. 464 (Mungera, North Queensland); and the account by Buckley, quoted in Howitt, p. 340, where a man guilty of elopement fights one of the Wudthaurung tribe until he himself is seriously wounded.

[49] Smyth calls it a "tribe."

[50] Aldridge, in Howitt, p. 333.

injured man in the case mentioned not being able to fight himself.[51]

On the Clarence River (Queensland) an alien eloper has to fight a single combat after there has been a combat between the local groups. If the match is approved, he is allowed easily to win.[52]

(*c*) *The Injurer has to stand an Expiatory ("Ordeal") Punishment from the Injured Man or his Kinsmen.*

This is the commonest form of intergroup justice on the individual—at any rate, in the south-eastern area.

Among the Wotjobaluk, when one of another group was guilty of a serious offence, he was summoned by a messenger from the offended group. The injurer and the injured came to an appointed place (each accompanied very often by his fellow totemites). The offender then stood an ordeal of spear-throwing from the injured man's kinsmen until he was wounded, whereupon the matter was ended, even in cases of murder. The whole proceeding was under the control of the

[51] See also the description of a single combat in Barron Field, pp. 78-81 (Moreton Bay). In this case the offended man wounded the other. Next day, in turn, the two groups met, that the former's group might offer satisfaction for the wound of the latter, but the other group declared itself satisfied.

[52] *Science of Man*, March, 1898, p. 47.

Cf. also Wyndham in *Journal of the Royal Society of New South Wales*, vol. xxiii., p. 36 (Boyne Island, Queensland). The statement here seems to indicate that when two men of different local groups fight over a woman there is a regulated combat between the members of the disputants' clan (totem) belonging to each group.

headman of the offender's local group, and if there was unfairness the two totems would fight.[53]

In West Victoria[54] the offender is tried "by the assembled tribes." If guilty, he has to stand the ordeal of spears and other weapons from the injured man and his kinsmen until hit.[55]

In the Yuin tribe (New South Wales) these expiatory ordeals, we are told, are preferred to blood feuds in cases of murder.

The offended group summoned the murderer or other offender to an appointed place. In murder cases the blood and group fathers and brothers of the dead man, to an agreed number, hurled spears and boomerangs at the offender till he was wounded, whereupon the headman of the offended group stopped the proceedings. The offender had two shields for his defence. [56]

Among the Kurnai, a man accused of magically causing death in another local group had to meet a near kinsman of the dead man. Each of the parties came to the meeting supported by his kinsmen and the members of his local group, together with the headman. The two bands

[53] Howitt, pp. 334, 335. *Cf.* also Schürmann's account for the Port Lincoln tribes (South Australia) in Woods, p. 245.

[54] Dawson, p. 76. If he does not appear to take his trial he is outlawed, and may be killed, and his nearest kinsman must submit to an "ordeal" punishment.

[55] *Cf.*, further, Smyth's statements for Victoria in general (vol. i., Introduction, p. xxiv ; vol. i., p. 79).

The ordeal punishments are always under the superintendence of the elders or headmen. *Cf.* also the account in Howitt, pp. 338, 340 of the ordeal punishment suffered by a Bunurong man (near Melbourne).

[56] Howitt, p. 342. *Cf.* also *Science of Man*, vol. iv., p. 46 (Combangri tribe) ; Smyth, vol. i., p. 160 (New South Wales) ; Collins, vol. i., p. 586 (New South Wales).

faced one another about two hundred yards apart. The wrong-doer then stood out, carrying a shield, and supported by his wife, who helped to turn aside the weapons. The aggrieved kindred advanced to within sixty yards of him, and hurled spears and boomerangs. When he became disabled his friends interfered. Sometimes the proceedings would end in a general fight. In some cases the wrong-doer was allowed spears to throw back at his opponents.[57] The ceremony once over, friendly relations were restored.[58]

In North-West Queensland, if in a duel for some private matter between two men of different tribes one of them is killed, the dead man's friends and group brothers and other kinsmen, when the news reaches them, come and demand the culprit, who is usually given up (at least, when the demand is backed by a large body of warriors). He now has to stand a severe onslaught from the aggrieved men, sometimes escaping with his life by accident or bribery.[59]

Now and again the aggrieved men are not satisfied with the murderer's death, and may demand the giving up of another man. If this is refused, there will be a collective fight between the two groups, wherein several deaths may occur.[60] Sometimes the aggrieved side would take unregulated vengeance on a whole camp,

[57] Note the close connection between the ordeal punishment and the single combat, as shown by this case.

[58] Howitt, pp. 344-348; Fison and Howitt, pp. 216-224.

[59] Roth, "Ethnological Studies," etc., p. 140.

[60] *Ibid.* The murderer seldom tries to escape, and if he does escape is for ever ostracized. To guard against his escape the party seeking satisfaction surrounds the camp at night.

killing the men, and sparing only women and children.[61]

(*d*) *Blood Revenge is taken on a Murderer, or on one of his Kindred, by the Kinsmen of a Murdered Man.*

Under this head belong certain cases of inter-group justice which lie on the borderland of war proper. They differ from this in that the object of the vengeance is the offender only or his kindred. There seems to be no intervention by the local group to which the murdered man belongs.

In these cases summary blood revenge is taken on an offender (or sometimes one of his kindred) belonging to another local group by the kinsmen of the murdered man.[62] There are mentions of such cases from New South Wales and Victoria,[63]

[61] "Ethnological Studies," etc., p. 141. Note how regulated justice is always ready to pass over to the unregulated.

The ordeal punishment in West Australia is described by Salvado, p. 324. It follows, he says, a regulated fight between the two local groups. Mrs. Bates also records the existence of this ordeal punishment in West Australia.

[62] We may here note the loose way in which the term "friends" is used by observers in treating of justice; it is not always clear how far only "kinsmen" is meant, and the result is want of precision.

[63] Howitt, pp. 352, 353 (Kurnai), 342 (Yuin); Dawson, p. 68 (West Victoria: the guilty man is acquitted if he escapes for two moons); Grey, vol. ii., pp. 239-241 (Grey speaks generally as if the blood revenge in South-West Australia was always taken on kinsmen only. But on p. 241 he says that the avenging party, if it fails to kill the guilty man, kills any native it may meet. This seems to be the indiscriminate revenge which we shall deal with under the term War).

Dawson, p. 34, says that if a man of another tribe, who has eloped with a woman, kills her rather than that she should be taken away from him, the blood revenge will be exacted from him or from one of his kinswomen.

and the observation of Fraser[64] belongs here, who says that in the New South Wales tribes, when a death is believed to have been caused by magic, the dead man's kinsmen organize a party of three or four men to kill the suspect.

(ii.) *Justice between Local Groups as Wholes.*

We have now dealt with justice exercised on an individual or individuals of an alien group. It remains to examine the question of justice as between local groups as wholes.

In this case the two whole groups take part directly in the settlement, either because the offending group bears the responsibility for an individual offender,[65] or because the offence is one which is imputed to the group as a whole.

The most common causes are murder (by magic or natural means), stealing of women, sickness caused by magic, and territorial trespass.

At the outset we may refer to a few indications which we have of the settlement of disputes by discussion.

Among the southern Kamilaroi disputes about

[64] p. 86. He adds that probably an innocent man is killed, and this gives rise to a blood feud with the latter's kindred, and so matters go on.

Grey says (vol. ii., p. 240) of South-West Australia that when a murder has been committed the near kinsmen go and confront those of the offender, and after an altercation both parties unite to search for him.

[65] *Cf.* the remarks of Beveridge in the *Journal of the Royal Society of New South Wales*, vol. xvii., p. 23; Curr, vol. i., p. 108; Beveridge, p. 23.

trespass were sometimes settled by parleys ;[66] this also was the case in Southern Victoria.[67]

In the Narinyeri tribe, when an individual committed an offence on a member of another clan (primary local division), he was tried before the assembled elders of both clans ; if guilty, he was punished by his own clan.[68]

In the tribes of the Natal Downs (North Queensland), when both sides had grown tired of unregulated warfare, each sent two or three representatives, who arranged matters, the weaker side giving some women and nets to make up the difference.[69]

But the ordinary way of settling differences between local groups as wholes is *The Regulated or Juridical Fight.*

We have examples of this institution from all parts of Australia. The fight is either between all the warriors of each group, or, less often, between one or more champions from each side.

Any kind of dispute between two local groups may be settled in this way.[70] The causing of death by magic may lead to what we have called war proper, but this is probably only in a minority of cases.

[66] Naseby, in Howitt, p. 332.

[67] Howitt, pp. 340, 341. In the case described a Wudthaurung had trespassed on Wurunjeri property. The act was disowned by his group at a meeting with the offended group, and they undertook it should not again happen.

[68] Howitt, p. 341. With this compare what Dawson says (p. 76) of the West Victoria tribes, where a wrong-doer was tried before " the assembled tribes."

[69] Chatfield, in Curr, vol. ii., p. 477. *Cf.* also Armstrong, *ibid.*, vol. ii., p. 465 (Mungera).

[70] *Cf.* Curr, vol. i., pp. 84, 349, etc. ; Smyth, vol. ii., p. 316.

Curr's account of the regulated combat is a description in its general outlines of what takes place over the whole of Australia : " The parties are drawn up in single file and open order, 30 or 40 yards apart." They let off spears in a constant stream, and with little noise. When a warrior has fallen, hoarse shouts are heard, and some couples come to close quarters.

" Shortly a cry arises on both sides to part them ; men, and perhaps women, interpose, and the combatants separate to look after the wounded. When one has been killed, both parties usually retire at once, and another battle may take place later. If nothing worse has happened than severe wounds, peace is made, and for a few nights the tribes coroboree in turn, one tribe being the performers and the other the spectators of the evening. . . . I should not think that a battle ever lasts more than half an hour."[71]

We need only add that some accounts seem to indicate that on a man being wounded the fight stops, either altogether or for a time.

Information as to the existence of this institution is given us from the central area[72] and from the

[71] Curr, vol. i., p. 84. See also Smyth, vol. ii., pp. 282, 294. Curr adds (p. 85) : " It always seemed to me, in connection with these engagements, that the Blacks were unable to forgive an enemy until they had had an opportunity of trying to take his life, or that of one of his blood-relations, which is the same thing in their estimation, but that after they had enjoyed this outlet for their indignation, they bore little or no malice." This points, indeed, to the essence of vengeance—the strong desire to recover one's sense of superiority.

In Barron Field (p. 73) a fight is described near Moreton Bay which lasted more than two hours.

[72] Spencer and Gillen, " The Native Tribes," etc., p. 542 (in disputes about a woman).

southern area.[73] Among the Port Lincoln tribes (South Australia) these fights were known of by both sides months beforehand. One of the parties chose a meeting-place, and sent messengers to invite their opponents.[74] Here various evolution were gone through by both parties, and they then spent the night in singing and corobori. Early next morning[75] the fight began. Eight men from each side stood about twenty paces apart, and after they had thrown several spears the challenging party declared the fight at an end.[76]

From Victoria we have many examples of these regulated fights, the details being very much as those already given.[77]

Smyth, referring more particularly to this area, says that "after a very serious battle, some of the conquered may be murdered,"[78] and that in such encounters it is the women who suffer most, some of them in a great fight being perhaps killed.[79] They rush in towards the end.[80] He says also that after the fight the wounded are well cared for,

[73] Eyre, vol. ii., p. 233; Angas, vol. i., p. 88; *Journal of the Royal Society of New South Wales*, vol. xxiii., pp. 487-489.

[74] We are told that these fights were generally caused by abduction or murder (magical or otherwise).

[75] These fights are generally either early in the morning or towards sundown.

[76] Schürmann, in Woods, pp. 245-247. He says that in these fights there is no wish to take life. In the one described by him one of the men who wished to go on fighting after the proceedings were declared at an end was restrained by his own side.

[77] See Howitt, p. 256 (Kulin tribes). In this case we are told the men fought with the men and the women with the women. See also Curr, "Recollections," etc., pp. 309, 325; Smyth, vol. i., Introduction, p. xxiv; vol. i., pp. 79, 155-157, 159, 162, 163.

[78] vol. i., p. 155.

[79] *Ibid.*, p. 155.

[80] *Ibid.*, p. 156.

friend and foe alike joining in these offices.[81] Very often a dance ends the day, and both parties are completely reconciled. These fights sometimes arise as a sequel to an accused man suffering an ordeal punishment,[82] or are begun with a fight between two champions.[83]

In West Victoria quarrels between local groups were sometimes settled by single combat between the headmen. Sometimes they were settled by a fight between an equal number of warriors.[84] The fight between the men was often followed by one between the women.[85]

We have descriptions of these regulated fights also from New South Wales,[86] and from the south-west area.[87] In Northern Queensland[88] the

[81] Smyth, vol. i., p. 156. *Cf.* also *ibid.*, pp. 160, 161; Salvado, p. 324 (South-Western Australia).

[82] *Ibid.*, pp. 159, 160.

[83] *Ibid.*, p. 157 (Buckley's description).

[84] Dawson, p. 77. Sometimes these tribes hold fights merely as friendly trials of skill between ten or twelve a side (*ibid.*).

[85] *Ibid.*, p. 77.

[86] Teulon, in Curr, vol. ii., p. 204 (Bakunji); Smyth, vol. i., p. 160; Naseby, in Howitt, p. 332 (South Kamilaroi, where the settlement was by one or more champions from each side; and the Wiradjuri); Fraser, p. 37 (where the dispute was finally settled by single combat); *Science of Man*, vol. iv., p. 46 (Combangri); Collins, vol. i., p. 584 (Port Jackson—here a woman opened the fight by striking several men).

[87] Salvado, pp. 323, 324. Here the women worked up the men, and helped them by picking up the spears. The fighting stops directly a man is killed or wounded.

[88] Examples from the rest of Queensland will be found as follows: Howitt, 333, 334 (Turrbal), 333 (Kaiabara: where an offender was supported by his local group, this was challenged by that of the injured man. The challenged group accepted the challenge if it felt itself strong enough; otherwise it acknowledged itself beaten, and sent back the message-stick). See also Mathew, in Curr, vol. iii., p. 174 (Bunya district); Myles, in Curr, vol. ii., p. 38 (Tharmorginda); Armstrong, in Curr, vol. ii., p. 465 (Mun-

juridical fight is found in a highly developed form. In the Cardwell and Tully River scrubs there are regular tournaments, known as "prun." All the year round (except at flood-time) the natives meet regularly at the "prun"-ground or "puya," which is a large cleared circle reserved for these contests and for coroboris. The "prun" take place at short intervals.[89] A few days beforehand a messenger is sent round to remind the various camps, and everyone's duty is to come. The tribe on whose territory the "puya" happens to be arrives first, and takes up its position early in the morning. The various tribes (or "mobs," as Roth calls them) then arrive, each one with certain picked men, who are to uphold its honour, decorated with cockatoo feathers. Each tribe is also accompanied by women, four of whom carry spears. As each "mob" arrives, it advances into the ring, gives a shout, and then retires and sits down at the place where it entered the ring. All rest till the late afternoon. Then the tribe to whom the ground belongs comes into the ring and starts the proceedings in one of the following ways: (*a*) Some of the men throw a boomerang or spear into the

gera); Wilson, "Narrative of a Voyage Round the World," p. 143 (near Torres Straits); Petrie, in *Science of Man*, vol. v., p. 30. See, further, a long account of a fight on the Mary River in *Science of Man*, 1899, January, p. 264, February, pp. 8, 9, March, p. 36 (here the fight was decided by the first serious wound, and the wounded man fought for his revenge with the man who had wounded him). See also a long description in Barron Field, pp. 67-77: there was a series of single combats, and finally a general fight (Moreton Bay).

[89] Every seventh or thirteenth day in the Tully district; but the intervals vary in different districts. "Prun" means a "showing-off entertainment."

tribe with whom they want a fight ; (*b*) one man will "jaw" at a tribe collectively, or at one individual (who may, for example, have stolen his wife) ; (*c*) the whole "mob" will taunt the other "mob" collectively ; (*d*) as often as not, there being no real grounds for a quarrel either with an individual or a tribe, they invent one.

It may be these methods will not start a fight, or, at any rate, no blood may be drawn, the challenged party merely getting up and answering verbally. In this case one of the challengers sneaks round and lets fly a boomerang among the women and children. This action generally starts a fight in earnest, for it is a law that no fighting is allowed outside the circle. The fight may be either single or general, the former being due to a private grudge (real or supposed), in which the others do not join.[90] There are rarely any fatal results, unless the death of a particular man has been determined upon for some recognized offence. Except in such a case with a due ground, the victim's "mob" would retaliate, pulling out the man who had caused the death to make him pay the penalty.[91] The women, too, come into the circle, egging on the men, and fighting with the women of the opposite faction. There is a rest about every fifteen minutes, and if a person is

[90] A man will not be supported by his group, for example, if he challenges his uncles ; they fight it out alone.

[91] Roth says of the North Queensland tribes generally that the elders' council will demand satisfaction for the killing of one of its tribesmen by a member of another tribe, provided it has fighting-men enough to enforce its demand ("North Queensland Ethnography," bulletin 8, p. 5).

badly wounded, there is a short stop while he is carried off to safe quarters.[92]

There is a distinct recognition of fair play all through the proceedings, and, supposing a "mob" is small, and is getting worsted by a stronger one, a third "mob" (perhaps even at enmity with it) will come to the help of the weaker.

The proceedings go on till dark, when more friendly relations take their place, and coroboris are performed. At sunrise there is one more final bout, and all disperse homewards.[93]

The "prun," therefore, is a very important institution for a regular settlement of differences, and prevents serious consequences arising from them.

Two points to be specially noted are : (1) They are the occasion for the settlement of wrongs between individuals, and there are cases where the local group (or tribe) does not support the individual, but leaves the matter wholly to those concerned ; (2) besides the ordinary cases, where the local group (or tribe) supports its member, or itself inflicts justice on an individual, the "prun" is also the occasion for the settlement of disputes between local groups (or tribes) as wholes.[94]

[92] Although Roth does not explicitly say so, it is clear from his description that after the tribe owning the ground has once started the proceedings, other tribes come in and challenge.

[93] This description is taken from W. E. Roth, "North Queensland Ethnography," bulletin 4, pp. 15, 16.

[94] See also the account by Lumholtz (pp. 119-127) of a like institution (called "borboby") in the Herbert district (North-East Queensland). In the meeting he describes the fight between two groups was begun by three champions from each side ; others then joined in, there being a constant change of protagonists.

With the description of this highly developed form of regulated justice between local groups, we shall now go to the relatively unregulated method of justice known as "war."

The women helped by gathering up the weapons, and egged on the men. If a man fell hurt, the women protected him with their sticks. At these meetings "all disputes and legal conflicts were settled, not only between tribes, but also between individuals."

Although W. E. Roth and Lumholtz (p. 125) speak of "tribes" in this connection, it seems probable that, as in other cases, what is really meant is local groups.

IX

WAR

§ 1. GENERAL.

THE fights between local groups so far considered we have seen to be strictly regulated forms of justice. They take place under conditions analogous to those single combats we call duels, and, indeed, are very often decided by an actual duel between champions.

Moreover, in them it is a deliberate object to avoid any bloodshed other than that due to wounds ; the first blood that flows puts an end to the fight, and settles the dispute.

As Letourneau observes[1] : " Les Australiens ont une manière à eux de comprendre la guerre. Dans leur opinion, elle est une simple application de la loi du talion, un conflit juridique . . . et par suite elle doit être réglementée comme l'est toujours ce dernier."

Such is regulated war,[2] by far the commonest form in Australia ; but by its side exists what may be called war in the true meaning[3]—that is, revenge or justice carried out by one group on

[1] " La Guerre dans les diverses Races humaines," p. 32.
[2] " La guerre selon les règles, la guerre loyale," *ibid.*, p. 33.
[3] " La guerre bestiale, à la manière des fauves," *ibid.*, p. 33.

a tribe.[18] Yet the Kurnai clans carry on regular warfare with one another.[19]

Again, though, on the whole, it seems that this warfare was not necessarily carried on by kinsmen only of a dead man, yet some of the statements are to this effect.[20]

What seems most clear is that war proper is marked off from other forms of justice by the fact that the vengeance is carried out indiscriminately on the members of another tribe.[21]

It must be remembered, further, that in Australia there is no such thing as one tribe taking the field as a whole against another. The Australian tribe is merely a loose confederation of local groups, themselves made up mainly of scattered parties. All that happens in what we call war is that a small band made up perhaps of kinsmen of a dead man, together with such others as choose to join them, sets out to take blood vengeance on another tribe indiscriminately.

Warfare appears, therefore, as that form of vengeance where the subject and the object are at their widest,[22] and where there is relatively no regulation of the procedure. So far as it makes no discrimination of the object on which vengeance falls, war represents the most primitive form of justice.[23]

A consideration of the evidence from Australia

[18] Partly on the analogy suggested by Curr's remarks on associated tribes as distinguished from others, in vol. i., pp. 63, 84, 85.

[19] See Howitt, pp. 348-352.

[20] *Cf.* Smyth, vol. ii., pp. 229, 289; Grey, vol. ii., p. 240.

[21] Or, in exceptional cases, of another local group.

[22] *Cf.* Steinmetz, vol. i., p. 382.

[23] *Cf. ibid.*, vol. i., pp. 318-334.

leads us to conclude that here warfare proper is exceptional. The usual settlement of differences is by those regulated methods we described in the last chapter.

§ 2. QUARTER—TREATMENT OF WOMEN AND CHILDREN.

As might be expected from the very nature of war in Australia, since it is blood revenge that is sought, no quarter is given to the fighting-men during an attack ;[24] no prisoners are taken, except women.

In general, in those sudden onslaughts on a sleeping camp which constitute war, the women and children are not slain ;[25] nor are they ever slain in the regulated combats. After these night attacks, either the captured women are allotted to certain members of the attacking party by its leader (but in every case the woman is allotted only to a man into whose class she can properly marry), or else each warrior keeps any woman he may capture, or gives her away, or exchanges her with a fellow-tribesman (always under the same restriction).[26]

[24] *Cf.* Curr, vol. i., p. 86. We may here note that the waving of green boughs is an almost universal sign of peace in Australia. *Cf.* Waitz, p. 750 ; Curr, vol. i., p. 86 ; Smyth, vol. i., p. 28 ; *Science of Man*, vol. vi., p. 122.

I have met only one reference to poisoned weapons, namely, Chatfield, in Curr, vol. ii., p. 473 (Natal Downs, Queensland).

[25] *Cf.* Eyre, vol. ii., p. 224 ; *Science of Man*, September, 1896, p. 18 ; Fison and Howitt, p. 214. Slavery does not exist in Australia (*cf.* H. J. Nieboer, "Slavery as an Industrial System," pp. 85-87, 225-234).

[26] *Cf.* Spencer and Gillen, "The Native Tribes," etc., pp. 555, 556 (central area) ; Howitt, p. 260 (Yorke Peninsula) ; Fison

Certain peculiarities among the tribes in this regard may be referred to. The Narinyeri clans did not take captive the women of other Narinyeri clans.[27] Of the Turra tribe (Yorke Peninsula) we are told that the section of the tribe to which she belonged would fight for the recovery of a captured woman.[28] Among the northern Kamilaroi, if a captured woman did not belong to a class with which the capturer could marry, he had to give her back to her kindred.[29]

§ 3. TREATMENT OF WOUNDED AND DEAD—CANNIBALISM.

The motive for war in Australia being blood vengeance, from the very nature of the case it may at once be said that there is no idea of sparing the wounded ; it is the enemy's life that is always sought.[30]

But, on the other hand, in the far more frequent institution of the regulated combat, we saw in the last chapter that the greatest humanity prevails. In general, once a man falls wounded, the fight is over, and both sides unite in caring for him. In these fights deaths seldom occur ;

and Howitt, pp. 213, 214, 276, 289 ; Howitt, p. 195 ; Curr, "Recollections," etc., p. 316 (Victoria) ; Howitt, pp. 208, 216, 220 ; *Science of Man*, September, 1896, p. 18 ; Howitt and Fison, pp. 280, 344-346 (New South Wales) ; Howitt, pp. 225, 235, 280 (Queensland). There are no clear observations from Tasmania (*cf.* L. Roth, pp. 77-81).

[27] G. and F. Taplin, in Howitt, p. 261.

[28] Fison and Howitt, p. 286. But it is more likely that we have here merely a regulated combat over a stolen woman.

[29] Doyle, in Howitt, p. 208.

[30] *Cf.* Buckley, in Smyth, vol. i., p. 157.

indeed, we saw that in the North Queensland "prun" the killing of a man, unless he is guilty of a recognized offence incurring the death penalty, is treated as an ordinary murder ;[31] and in such cases it is clear no mutilation by the opponents would take place.[32]

We find a particular mutilation practised throughout Australia on the bodies of enemies killed in warfare proper : the fat round the kidneys is taken out, and either eaten or applied to the weapons.[33]

But this practice is not confined to the bodies of enemies killed in warfare.[34]

[31] *Cf.* the example given at the end of the last chapter (p. 145).

[32] We may here refer to a peculiar custom found among the Encounter Bay tribes. If an alien tribesman dies among them, the body is smoke-dried and carried about till it is restored to the dead man's tribe (Smyth, vol. ii., p. 310).

[33] See Angas, vol. i., p. 123 (Tatiara) ; Dawson, p. 69 ; Smyth, vol. i., p. 165 ; Curr, "Recollections," pp. 264, 319, 324 (Victoria) ; Howitt, p. 373 ; *Science of Man*, vol. iii., p. 210 ; iv., p. 203 ; April, 1899, p. 41 ; September, 1896, p. 19 ; September, 1898, p. 180 (New South Wales) ; April, 1899, p. 40 ; Lumholtz, p. 272 (Queensland). As to Tasmania, there is a conflict of evidence whether they mutilate the dead in warfare. Calder says they do so. See Ling Roth, pp. 79-81.

[34] Howitt says (p. 751) that in the south-eastern area this custom was practised both on dead tribesmen and on dead non-tribesmen. Men (and sometimes women) were often attacked for this purpose only. Mentions of cases where the kidney-fat was taken from the bodies of fellow tribesmen will be found as follows: Howitt, 372, 374, 375 (New South Wales) ; 753 (Queensland) ; Angas, vol. ii., p. 231 (Queensland). The Lower Murray tribes used the kangaroo's kidney-fat as a charm (Krefft, in Transactions of the Philosophical Society of New South Wales, 1865, pp. 370, 371).

another, under few, if any, restrictions or conditions, and carried out indiscriminately on the individuals of the group to which the offender belongs by that to which the injured person belongs.

Wars for conquest are not to be found in Australia. The only objects which may sometimes be sought by acts of violence are women, but this method of acquirement is exceptional.[4]

As we saw in the last chapter, all differences between local groups may be settled by regular procedure, one of the methods being the regulated combat, and it is in this way that differences are usually arranged.

Warfare proper only arises as a result of a blood feud, due to the killing of a member of one local group by a member of another local group, nearly always by magical means.[5] But even this ground of offence is most generally settled by one of the methods of regular procedure above described.[6]

[4] *Cf.* Curr, vol. i., p. 86. Australia, Letourneau suggests (p. 50), represents a state of development where war is useless. There is no need to fight for food. War exists, as a rule, merely with a juridical character, which gives it its regulated form. (The step to war proper, this writer says, is seen in those cannibal tribes which hunt human flesh; but *cf.* what is said below.)

[5] In Australia deaths happening otherwise than through human violence are imputed to an enemy's magic. *Cf.* Spencer and Gillen, "The Native Tribes," etc., p. 476; "North Queensland Ethnography," bulletin 5, p. 28; Fraser, p. 86.

[6] This is important to note. Curr, for example, in vol. i., p. 85, speaks as if the blood feud always led to unregulated warfare. *Cf.* also the vague and sweeping statements of Smyth, vol. i., p. 81; vol. ii., pp. 229, 289; and such statements as that of Curr, vol. i., p. 70.

In § 3, (i.) (*d*) above we mentioned a method of taking revenge for blood which may be considered as a transition form between regulated and unregulated justice. In this case it was the kinsmen of a murdered man who summarily took the life of the actual offender (or of one of his kindred).[7]

In some cases the "atninga" of the central tribes, described in the last chapter, forms likewise a transition form. As we there saw, the "atninga" sometimes inflicts justice by surprising a camp and spearing one or two men.[8] This form of summary justice (where the offender has not been given up by his group) leads to a return "atninga" being sent to avenge the second death, and so an endless kind of vendetta may be set on foot.[9]

There is another institution in the central area which represents a transitional form—namely, the "kurdaitcha." The "kurdaitcha" is a party consisting of a medicine-man and three others, sent by the elders of a local group to avenge a magically-caused death, the offender having been beforehand identified.[10] The party creeps up

[7] *Cf.* also note 61 in last chapter.

[8] *Cf.* the remark in note 34 of the last chapter. When an avenging expedition is setting out, should there be among the avenging group a man belonging to the group to be visited, he has to drink some of the blood of the former, and is then bound not to help his friends in any way (Spencer and Gillen, "The Native Tribes," etc., p. 461).

[9] "The Northern Tribes," etc., p. 568. The writers add, "though fortunately it sometimes happens that there is more noise than bloodshed." The "atninga" clearly is sent against another local group, whether within or without the same tribe as the group sending it. The same is true of the "kurdaitcha."

[10] Either through the dying man's information or by certain signs.

and spears him, he being supposed to die through magic.[11]

Certain examples have now been given of more or less unregulated justice carried out by small parties. In the last chapter we dealt with certain forms of regulated justice akin to these ; and cases have been noted where the regulated form sometimes passes over into the indiscriminate or unregulated form.[12]

There now remains to examine the question of war proper, if such exists, carried on by one local group against another.

Curr thus describes[13] what follows on the death of a man supposed to result from the magic of another tribe : " In such cases a party will set out after the burial, mad for bloodshed ; march by night in the most stealthy manner, perhaps fifty or a hundred and fifty miles into a country inhabited by tribes the very names of which they may be ignorant of." Then follows a night attack and wholesale extermination. If the camp attacked is too large for a wholesale slaughter, one or two will be killed, and the invaders

[11] Spencer and Gillen, " The Native Tribes," etc., pp. 477-481. Such procedure might be held to belong to the last chapter, coming under the head of the use of Authorized Agents (§ 3, (i.) (*a*)); but the essence of this, and the last example, seems to lie in their secrecy and the surprising of the victim. For this reason I have brought them into the present chapter. The " kurdaitcha " custom is said to be dying out.

[12] *Cf.* the notes 34 and 61 in the last chapter.

[13] Vol. i., p. 85. But, as already noted, it is by no means necessary for war proper to result in such cases ; the usual method of settlement is by regulated justice.

will retire, to be then pursued by avenging warriors.[14]

W. E. Roth, writing of North-West Queensland intertribal warfare, says[15] that the attacking warriors are all painted alike, so as to be mutually recognizable. A common procedure in such warfare is to steal up to the enemy's camp in the dead of night, and encircle it at the earliest dawn. With a shout, the carnage then begins.[16]

These descriptions are typical of what is reported from various parts of Australia.[17]

Our information, however, on the whole subject of this unregulated warfare in Australia is obscure. It would seem that the tribal solidarity here showed itself, and that, in general, such warfare would not take place between local groups within

[14] Curr, *ibid.* See also Curr, "Recollections," etc., pp. 309-316 (Victoria). In a case related by this writer messengers were first sent round to the neighbours to learn whether they had any objection to the expedition, as, owing to intermarriages, difficulties sometimes arise in these cases.

[15] "Ethnological Studies," etc., p. 141, 142.

[16] Beveridge is the only writer on Australia who mentions the use of night sentinels for camps ("Aborigines," p. 100).

[17] *Cf.* Eyre, vol. ii., p. 224; G. F. Angas, vol. i., pp. 109, 110; Transactions of the Philosophical Society of New South Wales, 1865, p. 373 (Southern Australia).

Howitt, pp. 256, 348-352 (blood feud between Kurnai clans), 353; Fison and Howitt, pp. 213-214 (Victoria).

Dawson, pp. 63, 68, 70, 71 (West Victoria: if a chieftainess is to be avenged in these tribes, a woman must be killed).

Science of Man, September, 1896, p. 18; Collins, vol. i., pp. 588-592 (New South Wales).

Science of Man, vol. v., p. 16 (Queensland).

Browne in "Petermann's Mittheilungen," 1856, pp. 447, 452; Grey, vol. i., pp. 293, 294, vol. ii., pp. 238-240 (West Australia).

Ling Roth, pp. 72, 73, 76; Waitz, part vi., p. 814 (Tasmania: but we really know nothing about warfare in this island).

Cannibalism prevails throughout Australia.[35] There are few, if any, tribes which do not practise it.[36]

With reference to any group, there are two kinds of cannibalism—endocannibalism and exocannibalism.

The former is practised by members of the group on one another ; the latter is practised on persons not belonging to the group. Before the terms can be used with precision, it is necessary to fix the group to which they are to refer.[37]

From our point of view, the unit of reference will be the local group ; but since, in general, warfare proper does not take place between local groups belonging to the same tribe,[38] our reference ultimately will be to those aggregates known as tribes. The question, therefore, before us is whether there are any tribes which are either wholly endocannibal or wholly exocannibal.

The many records to be found of tribes which practise both kinds of cannibalism may be left on one side.[39]

[35] *Cf.*, for example, Smyth, vol. i., Introduction, p. xxxviii.

[36] Taplin says (p. 39) the Narinyeri of South Australia were not cannibals. Calder makes the same statement of the Tasmanians (Ling Roth, p. 97).

[37] This, for example, is not done adequately by Steinmetz ; he applies endocannibalism to those cases " welche darin übereinstimmen, dass Verwandte oder Stammesgenossen von ihren Verwandten oder Stammesgenossen gegessen werden " (" Endokannibalismus," p. 1 ; *cf.* also p. 31).

[38] A few seeming exceptions will be referred to below.

[39] The existence of tribes whose members deliberately go hunting for human flesh (from other tribes or other local groups within their own tribe) seems highly doubtful. There are very few assertions of their existence (in South Australia, Angas, vol. i., p. 123 ; in North-East Queensland, Lumholtz, pp. 72, 271, 272), and such assertions are too vague to have any value.

There are, however, a few indications of local groups or of tribes wholly endocannibal or wholly exocannibal.

Dawson says the West Victoria tribes were endocannibal only ;[40] so were the Maryborough tribes.[41] The Theddora and Ngarigo of New South Wales were wholly exocannibal.[42] Mathews describes as follows an exocannibal custom among the Barkunji tribes of New South Wales[43]: When these tribes assemble for the initiation ceremonies, that tribe in whose territory the meeting is held is required to give up one of its tribesmen to be eaten by the visitors. He is killed by the men of that tribe in whose country the preceding assembly was held, " in retaliation for the victim which they themselves had to provide on that occasion."

Among the Kurnai, those who were slain in battles between the clans were not eaten, but the slain of other tribes were eaten.[44] The same custom seems to have prevailed among the Brajerak of Victoria.[45]

W. E. Roth says of North Queensland that only the Kalkadun eat slain enemies ; the other tribes

[40] p. 67. [41] Aldridge, in Howitt, p. 753.

[42] Bulmer, in Howitt, p. 752.

[43] *Journal of the Royal Society of New South Wales*, vol. xxxii., p. 250. This statement is highly questionable. Mathews is always to be received with the greatest caution.

[44] See Howitt, pp. 350, 752 ; Fison and Howitt, pp. 218, 223.

[45] Fison and Howitt, pp. 223, 224. But it is not stated whether the Kurnai and the Brajerak eat their kindred who have not died in warfare. The only mention I find of one portion of a tribe eating the bodies of members of another portion is in the case of a raid by one local group of the Wiraiari (New South Wales) on another, given in *Science of Man*, vol. iii., p. 210. But it is to be noted that there is always that possible confusion between local group and tribe to which we referred in Chapter II. (p. 21).

do not.[46] In opposition to Lumholtz, he declares that these tribes do not kill human beings especially for food.[47] The motive for exocannibalism seems generally to have been twofold—a sign of victory and contempt, and to assimilate the warlike virtues of the dead.[48]

[46] "North Queensland Ethnography," bulletin 3, p. 30. *Cf.* also "Ethnological Studies," etc., pp. 165, 166.

[47] "North Queensland Ethnography," bulletin 3, p. 30; "Ethnological Studies," etc., p. 166.

[48] But Roth says ("North Queensland Ethnography," bulletin 3, p. 30): "Though carefully sought for, I have obtained no reliable evidence of cannibalism being practised inorder to acquire any qualities, etc., of the deceased." His observation refers to North Queensland. In some Australian tribes parts of the bodies of slain enemies were cut off and carried about as trophies. *Cf.* Fison and Howitt, p. 284; Calder, in Ling Roth, p. 81.

X

GENERAL CONCLUSIONS

The evidence we have been able to collect from the Australian tribes shows us many of the ideas of International Law clearly developed—territorial sovereignty, the sacredness of messengers and envoys, a normal and recognized intercourse over wide areas through intermarriage and the exchange of commodities, and the existence in many cases of the rights of asylum, domicilement, and hospitality.

In contrast with the loose ideas generally held, war in these tribes cannot be deemed a normal condition. The ordinary method of settling all disputes, even in questions of murder, between the local groups has been found to be one or other of the forms of a strictly regulated justice. In this regulated justice there is a purposive avoidance of taking life, except in certain cases where there is a death penalty recognized for the offence by both the local groups concerned; such death penalty being due, not to the offender's belonging to a strange group, but being imposed likewise on an offender committing the offence within his own group.

War, on the other hand, presents itself only as the less usual form of revenge or justice for blood. Territorial conquest is never sought, for the absolute right of the local group to its district is fully recognized, and there are no permanent settlements nor accumulations of personal property (at least, of any importance). War, therefore, in these tribes has no other purpose but the seeking of justice or revenge for injuries done; while in all such cases other than murder, and in by far the most cases of murder, unregulated warfare has been supplanted by regulated forms, directly aiming at the avoidance of taking life in retaliation.

It is not going beyond the evidence to say that peace, not war, is the normal condition of the Australian tribes.

In the preceding chapters we have been able to see the gradual transition from intragroup to intergroup justice, and their close connection, taking the local group as our unit.

When differences arise between members of different local groups, (*a*) the securing of reparation by the injured person may be left to himself or to his kinsmen,[1] just as in cases arising between members of the same local group; or (*b*) the offended group, as a whole, may inflict justice on one or more individuals of the offending group, but not necessarily on the actual offender;[2] and this forms a transition to (*c*), the third method of

[1] See Chapter VIII., § 3, i. (*b*), (*c*), (*d*).
[2] See Chapter VIII., § 3, i. (*a*).

intergroup justice, where the two groups, acting as wholes, settle their differences by Regulated Combat.[3] It is to be noted that in the first of these three methods the local groups concerned are always in the background, ready to back each its own member.

In War the Subject of the revenge which lies at the root of justice may be taken to be the whole offended group, but the Object and the methods differ from the last of the above-described forms of justice.

The Local Group has been found to be, in Australia, the earliest form of the concept of jurisdiction, which is so important in modern so-called Private International Law.

Such indications as we have go to show that, in general, an alien within the local group partakes fully of the rights and duties belonging to the members of the group ; but the case of the North Queensland tribes is to be noted, where a visitor's own group may call to account the group he has been visiting if he should be maltreated.[4]

On the other hand, in the discussion of intergroup justice, it was seen that the right was fully recognized of a local group to inflict justice—acting either as a whole through agents, or acting in the persons of the injured member or his kindred—on a non-member, even when not domiciled in it, or a visitor.

Again, the methods of justice as between members of different local groups were seen, in certain

[3] See Chapter VIII., § 3, ii.

[4] See Chapter VI., § 2 (p. 102).

of these cases, to be identical with those holding as between members of the same local group.

It would seem that in Australia we have a very early stage in the differentiation of intergroup from intragroup justice, where the units of reference are not based on kinship. We may hold this to be the earliest stage in what is known as International Law.

XI

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NOTE

Amongst the sources for Australian Anthropology, the works of Fraser, Fison, Spencer and Gillen, and W. E. Roth stand alone for their scientific method. Much of Howitt's "The Native Tribes" necessarily consists of contributions by correspondents, owing to the extent of the ground covered. The statements of these untrained observers must always be received with caution.

Curr's "The Australian Race" is wanting in exactness, and, moreover, consists mainly of contributions from many hands. But this writer's "Recollections" are valuable, as they represent the long observation of a limited area. Brough Smyth's work is valuable, but is somewhat marred by his not always distinguishing how far the observations apply to Victoria only, and how far to other areas.

Beveridge, Browne, Dawson, and Collins were first-hand observers of limited areas who must be given much weight.

The ethnological contributions to the *Journal of the Royal Society of New South Wales* and to the *Science of Man* are, on the whole, not very trustworthy nor carefully written. The works of Taplin and Wood consist of contributions by various correspondents, whose results must be received with caution.

Bonwick's work on Tasmania is useless; for this area Ling Roth is indispensable.

ADDENDA

Translation of note 7, pp. 4-5 (Conde y Luque in Olivart, prólogo, pp. 18, 19) : " All that have been mentioned, and many more that could be brought forward, are really the mere results of the onward stream of history, the natural fruits of human culture. They are not to be imputed in any but the smallest degree to the law of nations, which is one of the elements in the life of mankind."

Translation of note 19, p. 23 (Cunow, p. 121) : "There is a great distinction between the Australian and the North American tribes. Among the North American Indians we always find the Tribe to be an organism self-contained, showing itself outwardly as a unity, and with a kind of tribal government, and peculiar religious institutions. Among the Australians, on the other hand, there is found nothing of the kind, even among the most advanced tribes. The Australian Tribe is only a loose collection of autonomous Hordes, who speak dialects of the same tongue, and show very much the same customs and institutions. We must never picture to ourselves under this term a united whole with definite functions ; there is for the most part hardly any sign of a Tribal sentiment."

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